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New Caledonia

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Contents

		Paragraphs	Page
I.	General	1–5	2
II.	Political situation	6–47	3
	A. Background	6–10	3
	B. New governmental structure	11–16	4
	C. Recent political developments	17–38	5
	D. External relations	39–47	9
III.	Economic data and developments	48–66	11
	A. General	48–52	11
	B. Mineral resources	53–59	12
	C. Other economic sectors	60–65	13
	D. Labour	66	15
IV.	Consideration of the question by the United Nations	67–70	15
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	67–68	15
	B. Special Political and Decolonization Committee (Fourth Committee)	69	16
	C. General Assembly	70	16

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I. General

1. New Caledonia[1] is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. In 2004, a new census was initiated in France of all its overseas Territories, the results of which are still pending. In the case of New Caledonia, the census provoked controversy and calls for its boycott by the indigenous movement, whose members were dissatisfied with the omission of questions regarding ethnicity. The questions had been removed following an intervention by the President of France, who had labelled them scandalous and unlawful. Later, some mainland French residents argued that they also did not want to partake in the body count because they felt they were not regarded as citizens. New Caledonian officials estimate that at least 10 per cent of the population boycotted the census. According to the French National Institute of Statistics and Economic Studies, that could have an impact on the reliability of the census data. Meanwhile, the Caledonian Congress decided to organize another survey in 2005 to obtain information regarding the ethnic composition of its population.[2]

3. The current data on the population of New Caledonia vary significantly. Population estimates are between 220,000 and 235,000, which correspond to a growth rate between 12 and 19 per cent, compared to the last census in 1996, when the population was 196,836.[3] According to the 1996 census, the population comprised indigenous Melanesians known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). Almost half the population was reported to be under 25 years of age.

4. The majority of the population (68 per cent) lives in the South Province, mainly around the greater Nouméa area, while 21 per cent live in the North Province, and only 10.6 per cent in the Loyalty Islands. In 1996, the native Kanak population made up 77.9 per cent of the population of the North Province and 97.1 per cent of the population of the Islands, but only 25.5 per cent of the population of the South Province. With respect to the Territory's second largest population group, persons of European origin, 89 per cent live in the South Province. The official language is French and about 28 Melanesian-Polynesian dialects are spoken.

5. The political and administrative structures of New Caledonia have been fundamentally altered by the Nouméa Accord (A/AC.109/2114, annex), signed in May 1998 between the Government of France, the pro-independence Front de libération national kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR). Under the terms of the Accord, the New Caledonian parties opted for a negotiated solution and progressive autonomy from France rather than an immediate referendum on political status. The transfer of powers from France began in 2000 and is to end within 15 to 20 years, when the

Territory will opt for either full independence or a form of associated statehood. The political and legislative process that is under way and the new institutional arrangements in place in New Caledonia are described in section II below. The characteristics of New Caledonia's economy and employment, as well as current efforts to implement a policy of redressing economic and social imbalances between the more prosperous South Province and the less developed North Province and Loyalty Islands, are described in section III.

II. Political situation

A. Background

6. The Nouméa Accord provided for a number of steps towards a negotiated consensual solution for the future of the Territory. As stated in the preamble to the agreement, that solution would define the political organization of New Caledonia and the arrangements for its emancipation over the next 20 years. Among the steps to be taken were constitutional amendments, the creation of new institutions, the full recognition of Kanak identity and rights, the establishment of parameters for the electorate and the gradual transfer of powers from the French State to the New Caledonian authorities.

7. On 6 July 1998, the French Parliament passed, by 827 votes to 31, a constitutional reform that inserted two articles, 76 and 77, into the Constitution. Article 76 provided that the people of New Caledonia would be called upon before 31 December 1998 to express their views on the provisions of the Nouméa Accord. Article 77 provided that, following approval of the Accord, a constitution would be submitted to a vote in Parliament in order to enable New Caledonia to move forward on the basis of the Accord.

8. Prior to the referendum, the two major parties of New Caledonia, FLNKS and RPCR, had both campaigned for approval of the Accord among their respective constituents. The Accord was ratified by New Caledonians in a referendum held on 8 November 1998. With 74 per cent of the electorate voting, 72 per cent voted in favour of the Accord.

9. Following the referendum, the Nouméa Accord provided for the renewal of relations between France and New Caledonia to be translated into a draft organic law and an ordinary law, which were presented in the French Parliament and ratified on 19 March 1999. The Organic Law codified constitutional matters, namely, the powers that would be transferred to the newly created institutions in New Caledonia, the organization of those institutions, rules concerning New Caledonian citizenship, the electoral regime and conditions and deadlines by which New Caledonians would determine their accession to full sovereignty. The Ordinary Law dealt with other matters, mainly economic and social, covered in the Nouméa Accord.

10. The issue of eligibility to vote in future elections in New Caledonia also required legislative action during 1999 (see A/AC.109/2000/4, para. 22). The French National Assembly and the French Senate approved a constitutional amendment establishing that only those persons who have resided in the Territory for a specified number of years should be eligible to vote in a future referendum on

self-determination, as well as in the congressional and provincial elections. To complete the ratification process of the amendment, the French Congress (a joint sitting of the National Assembly and the Senate) would have had to approve it as well. However, according to the Minister for Overseas Territories, that is no longer possible, owing to the fact that some provisions of the amendment regarding French Polynesia are no longer appropriate. Thus, a revised bill, omitting the provision on French Polynesia, must be reintroduced, and upon its approval in both chambers of the French Parliament, the French Congress could finally vote on it at the end of 2005 or early in 2006.[4] In relation to that issue, in July 2002, the United Nations Human Rights Committee rejected a claim lodged by an association of voters in New Caledonia alleging that their exclusion from the voter registry for a future referendum was discriminatory and that the cut-off dates for voters were excessive. The Committee ruled that that was not a violation of the International Covenant on Civil and Political Rights because the cut-off dates set for referendums from 2014 onwards were not excessive "inasmuch as they are in keeping with the nature and purpose of these ballots, namely a self-determination process involving the participation of persons able to prove sufficiently strong ties to the territory whose future is being decided".[5]

B. New governmental structure

11. New Caledonia continues to vote in French presidential elections and to elect one member of the French Senate and two members of the French National Assembly. Due to reform efforts, which will enlarge the French Senate from 331 to 346 members, the Territory will obtain a second seat no later than 2010.[6] However, as a result of the entry into force of the Organic Law in 1999, a new governmental structure was created in the Territory, as described below.

12. Congress is the legislative assembly of New Caledonia. It comprises 54 members, consisting of 7 members of the Provincial Assembly of the Loyalty Islands, 15 of the Provincial Assembly of the North Province and 32 of the Provincial Assembly of the South Province. Members are elected for five-year terms. In January 2005, the European Court of Human Rights ruled that a provision of the Nouméa Accord, which requires 10 years of residence in New Caledonia for participation in provincial and congressional elections, does not violate the right to free elections and does not constitute discrimination on grounds of national origin.[7] The judgement signalled the conclusion of a six-year legal struggle.

13. The Government is the executive power of New Caledonia and is headed by the President. It is elected by Congress and is responsible to it. It is composed of between 5 and 11 members, the exact number to be fixed by Congress prior to the election of the Government. The Nouméa Accord stipulates that the Government is a collegial cabinet, which must reflect party representation in Congress. The Government prepares and executes the decisions of Congress, appoints public and administrative officers, oversees the execution of public works, manages local resources, gives its opinion regarding projects that involve the mines in the Territory and prepares the codification of the Territory's laws.

14. The Provincial Assemblies are responsible for all matters relating to the province that are not directly attributed to the President of the Provincial Assembly. The President of the Provincial Assembly acts as the executive of the province and,

as such, is responsible for the administration of the province and the management of public employment at the provincial level. Members of the Assembly are elected for five-year terms.

15. The Economic and Social Council advises the Government on projects and possible laws that have an economic or social character. It comprises 28 representatives of professional, labour and cultural organizations, 2 members designated by the Customary Senate and 9 personalities that are representative of the economic, social and cultural life of New Caledonia, designated by the Government on the advice of the Provincial Assemblies.

16. The Customary Councils are a parallel set of institutions in eight areas, which are designed to accommodate full political recognition of the Kanak identity. In addition, there is a Territory-wide Customary Senate, comprising 16 members, 2 selected by each Customary Council. The Customary Senate is represented in the Economic and Social Council, the Administrative Council, the Consultative Council on Mines and local development agencies. The Customary Senate and the Councils are to be consulted by the executive and legislative organs of New Caledonia on matters that have to do directly with the Kanak identity.

C. Recent political developments

17. Following the ratification of the Nouméa Accord by the people of the Territory and the codification of its provisions into French law, New Caledonia is no longer considered an Overseas Territory. Instead, the Government of France describes it as a community sui generis, which has institutions designed for it alone to which certain non-revocable powers of State will gradually be transferred.

18. For the past 25 years, the party system in New Caledonia has been dominated by the anti-independence RPCR, which was founded and led until 2005 by long-time President of the South Province Jacques Lafleur. However, according to the administering Power, uneasiness about one party dominating the party system grew and culminated just months prior to the Caledonian general elections in May 2004, with the emergence of a new party, Avenir Ensemble (AE).[8] AE is opposed to complete independence from France. However, the party is viewed to be more consensus-oriented with the indigenous Kanak movement, and supportive of full implementation of the Nouméa Accord. The indigenous movement is part of FLNKS, a coalition of several pro-independence groups, of which only Union Calédonienne (UC) and Parti de Libération Kanak (PALIKA) are represented in the Territory's Congress. During the past three years, FLNKS has faced problems in defining its internal organization and party strategy. While the party was not able to elect a president during its 2003 congressional session, and had to cancel the last session of congress scheduled for the end of 2004, a political bureau consisting of eight members has been managing affairs on a temporary basis.[8] Another active party in the Territory is Front National (FN), which rejects not only independence but also the Nouméa Accord. FN is represented in the Congress.

19. The last elections for the three Provincial Assemblies, which also determine the composition of Congress, the legislative body of New Caledonia, were held on 9 May 2004, ending RPCR's 25-year domination of the Caledonian Government. In its first election, AE obtained 16 of the 54 seats in Congress, on par with RPCR. UC, one of the parties normally under the umbrella of FLNKS, decided to run its

own candidates separately in the elections. While FLNKS won nine seats, UC obtained seven. FN received four seats in Congress and two smaller parties obtained one seat each. The anti-independence alliance increased its representation from 31 seats to 36 seats. According to a report of the French National Assembly, that gain was due mainly to fragmentation within the independence alliance. In the South Province, where the independence movement was split into several lists, no representative received the required 5 per cent of the vote necessary for a seat.[9]

20. At the level of the provinces, AE won 19 of the 40 seats in the South Province, while the North Province remained in the hands of FLNKS and UC, with the parties holding 11 and 9 seats respectively from a total of 22. The independence alliance was the strongest performer in the Loyalty Islands, where it holds 6 of 14 seats. In each province, a member of the leading party has been elected President of the Provincial Assembly, who also acts as the chief executive of the province. RPCR also lost the presidency in the South Province, which has been considered its stronghold for the past 25 years, when RPCR President Jacques Lafleur served in that post. In January 2005, Mr. Lafleur resigned from his post as President of RPCR and was replaced by Pierre Frogier.[10] In view of the results, a report of the French National Assembly speaks of growing political division between a pro-independence North and an anti-independence South.[9] The next elections for Congress and the Provincial Assemblies are scheduled for 2009.

21. Political stability in New Caledonia can be undermined by the existence of the "collegiality clause" of the Nouméa Accord, which states that if a member of the 11-member Government cabinet resigns and there is no replacement from his or her party, the whole Government will have to be re-elected by a vote in Congress. As has happened on previous occasions, there is a risk that disgruntled parties might resort to the clause again in order to force a new election.[11]

22. Following the political breakthrough in the May 2004 elections, with the emergence and immediate success of AE, the composition of the new New Caledonian Government grew highly complex. In the initial election, on 10 June 2004, Congress fixed the number of government members at 11 and decided that AE should get five seats in the collegial Cabinet, RPCR 3, FLNKS 2 and UC 1. The new Government then elected Marie-Noëlle Thémereau of AE President and re-elected Kanak writer and FLNKS member Déwé Gorodey Vice President. However, hardly into office, Mrs. Thémereau's Government had to resign, when RPCR withdrew from the Cabinet, claiming that it was entitled to four, instead of just three, seats. RPCR member of Congress Suzie Vigouroux declared that she had erroneously voted for the Government, which had cost her party a seat.[12]

23. After RPCR was promised one more seat at the expense of AE, RPCR Cabinet members agreed to join the new Government, which was to be elected on 24 June 2004. According to a report by the French National Assembly, the independence alliance this time declined to be the one to settle what was considered an internal dispute of the anti-independence camp.[9] Without its votes, neither Mrs. Thémereau nor Mr. Frogier could obtain the required absolute majority of six votes. In a second attempt, on 29 June 2004, when observers were considering the possibility of new congressional elections, Mrs. Thémereau finally received the required vote to be elected President, as did Mrs. Gorodey to be elected Vice President, this being the first time the Territorial Government has been led by two women.[13]

24. In view of the election results and subsequent events, Mr. Frogier predicted, in a speech to the French National Assembly in November 2004 a new period of instability, stating that his party, RPCR, was systematically excluded from all responsibilities by an anomalous coalition.[14] However, his successor, Mrs. Thémereau, stressed in her *Déclaration de Politique Générale* in August 2004, that the absence of an absolute majority both in Congress and in the Government reflected the nature of the Nouméa Accord, which stipulates that power must not be monolithic, but shared.[15]

25. Another territorial institution, the Customary Senate, considered to be the guarantor of Kanak identity, was formally constituted on 27 August 1999. The Senate, which has a rotating presidency to accommodate each of the eight customary areas, selected a new chief, Paul Jewine, in 2004. In her *Déclaration de Politique Générale* of August 2004, Mrs. Thémereau suggested that the Senate's renewal in 2005 could be an occasion to tackle certain reforms, specifying that it was up to the Kanak society to decide on its representation.[15]

26. The last of the territorial institutions, the Economic and Social Council, was formally established on 2 February 2000. It is composed of 39 members. The Council continues to be consulted by Congress on all economic and social matters. Its mandate expired in January 2005, and new appointments will be made in the spring of 2005.

27. Regarding French State institutions, in the French Senate elections held in September 2001, incumbent Simon Loueckhote of RPCR was elected New Caledonia's Senator for a further nine years. Regarding the French presidential elections, Jacques Chirac (Rassemblement pour la République) obtained 80.72 per cent of the New Caledonian vote and Jean-Marie Le Pen 19.58 per cent.[16] In the June 2002 elections for the French National Assembly, New Caledonian voters returned two members of the pro-integrationist RPCR to their seats, namely, Mr. Lafleur, who has held the seat in Paris for 24 years, Mr. Frogier.[17]

28. The French State is represented in the Territory by High Commissioner Daniel Constantin, who has served in that post since 2002.

29. As envisaged in the Nouméa Accord, in 1999 the new institutions began to enact country laws (*lois du pays*), which have the full force of law and can be contested only before the Constitutional Council. Since 1999, 34 such laws have been adopted, 10 during the period under review. The laws adopted in the past two years relate to social, finance and customs issues and various tax laws.

30. Also set out in the Nouméa Accord are the powers to be exercised in association between the French State and New Caledonia, namely, related to external relations; entry and stay of foreign nationals; law and order; gambling; audio-visual communication; research and higher education; and secondary education. A number of other services and jurisdictions are to be gradually transferred from the State to the Government of New Caledonia (see A/AC.109/2001/14, para. 21). In 2003, steps were taken to finalize the transfer of the services for labour inspection, foreign trade, primary education, mining and energy, as well as the two State bodies, the Institut de formation des personnels administratifs and the Office des postes et telecommunications.

31. According to the administering Power, the competencies that could be transferred in the period 2004-2009, the time period corresponding to the length of

office of the current New Caledonian Congress, are those related to the police and security in air and sea traffic, private primary education, civil and commercial law and civil security. Upon the approval of an additional organic law, transfer would also be possible for rules regarding the administration of the provinces and municipalities, higher education and audio-visual communication. The administering Power stressed that, according to the Nouméa Accord, the New Caledonian Government would have had to ask for the transfer of those powers during the first six months following the elections of May 2004. As that did not take place, no powers are likely to be transferred until 2009, when the next Congress is elected.[8]

32. In the past, in spite of the considerable institutional and administrative advances described above, progress was often hindered by friction between RPCR and FLNKS, owing to their differing interpretations of collegiality in Government matters. They held opposing views on issues such as voter eligibility, mining initiatives and, especially, implementation of the Nouméa Accord. However, that may change, owing to the emergence of AE onto the political scene. Newly elected New Caledonian President Thémereau and her party have promised to resume implementation of the commitments outlined in the Nouméa Accord, upon which, according to the Kanak movement, the former RPCR-led Government reneged. Regarding social and economic issues, the Government has already raised the minimum wage, increased taxation of larger businesses to help fund reforms and highlighted the need to tackle a chronic shortage of low-cost housing, while supporting small and medium-sized local businesses and investment incentives and trying to promote jobs for local people.[18]

33. The French Government expressed its intention to be an impartial and engaged judge during the Nouméa process, and President Chirac stressed the role of the French Government as a partner in the transfer of further jurisdictions to New Caledonia. He pledged that the Nouméa Accord would be fully implemented and respected by the State and that it would help further the development of education, environment, regional cooperation and metallurgical projects.[8]

34. Divisions within the pro-independence camp have been apparent since the resignation of FLNKS leader Roch Wamytam from the Government in October 2001 and the growing conflict between the various components of the party, including among those represented in Congress. While PALIKA represents a moderate position with regard to the implementation of the Nouméa Accord, UC has adopted a more radical approach towards independence.[19] The whole implementation process of the Nouméa Accord could be jeopardized by ongoing instability and according to the Economist Intelligence Unit, dissolution of FLNKS cannot be ruled out.[11]

35. In January 2005 the Committee of signatories of the Nouméa Accord met in Paris. Prior to the meeting, it was discussed whether AE should be allowed to participate in the follow-up process, which historically was supposed to be between France and the original signatories of the Accord. RPCR was opposed to the idea of including the new party. In the end, a compromise was reached, stipulating that each delegation was allowed to include members of other parties, such as AE.[19] According to the summary of the meeting, the following issues were discussed: the composition of the electorate for New Caledonian elections, the introduction of the euro, new development agreements for the period 2006-2009 and the implications of the new census regarding financial support for New Caledonia. Concerning the

latter, the Minister for Overseas Territories stated that the Caledonian municipalities would receive more funds in 2005, due to the population increase.[4]

36. In September 2003, a visiting delegation from the French Parliament also concluded that implementation of the Nouméa Accord was proceeding well. However, the Kanak community has argued that the reforms outlined in the Accord are being implemented too slowly, especially those relating to voter residence requirements (see para. 8 above). Meanwhile, President Chirac has promised resolution of the question before the end of his term.[11]

37. Another political issue that continues to cause tension in New Caledonia is the inter-ethnic strain between the Kanaks and the settlers from the French territory of Wallis and Futuna, a confrontation that flared between them in 2001 and 2002 (see A/AC.109/2002/13, paras. 30-32 and A/AC.109/2003/7, para. 32). While the Wallis and Futuna Islands have a population of 15,000 inhabitants, New Caledonia is home to 20,000 Wallisian people. After a long-standing dispute over the housing of people from Wallis and Futuna on disputed land near Nouméa, the remaining 30 Wallisian families were moved from the area under police guard in September 2003.[11]

38. According to the French High Commissioner, the inter-ethnic tensions revealed the fragility of the Nouméa process, and he urged the communities concerned to work with State and local institutions towards redressing the social and economic imbalance in the Territory. After numerous meetings, in November 2002, the chiefs of the Kanak and Wallisian communities agreed to resolve their differences peacefully. In December 2002, the Minister for Overseas Territories signed a €25 million development agreement with Wallis and Futuna, aimed at stemming the outflow of the islanders.[20] An accord signed between the two communities in December 2003, which stipulated the principle of dialogue on all decisions taken by New Caledonia, could affect its inhabitants from Wallis and Futuna.[6]

D. External relations

39. The legal framework within which New Caledonia may establish external relations is governed by the Organic Law of 1999. In that regard, the participants at the January 2002 meeting of the signatories of the Nouméa Accord agreed on the importance of developing trade and other relations with the larger actors in the Pacific region (Australia and New Zealand), as well as with other island States, and of building on existing links with regional organizations. Another concern expressed was the need to establish better links with the European Union, given its political, commercial and financial importance.

40. In July 2003, President Chirac met with the heads of State of the Pacific region in Papeete, Tahiti. During the meeting, the President expressed his intention to strengthen cooperation between the countries of the region, in particular the French Pacific Territories of French Polynesia and New Caledonia. President Chirac announced that the allocation to the fund for economic, social and cultural cooperation for the Pacific would be doubled to €3,352,000.

41. On the multilateral front, New Caledonia has strengthened its ties with the European Union (EU). In 2004, the Territory received €13.75 million from the European Development Fund. According to the EU, the aid is aimed at vocational

training, which is seen as an instrument in reducing internal economic imbalances in the Territory.[21] In December 2003, a delegation formed by the then New Caledonian President, Mr. Frogier, and a Kanak representative attended the European Union Overseas Countries and Territories Forum in Brussels, which covered issues related to trade, economic cooperation and the implementation of EU development aid.

42. Another important issue related to the EU is the possible introduction of the euro into New Caledonia by 2007. Currently, the Territory's currency is the Comptoirs Français du Pacifique franc (CFP), which has an exchange rate fixed to the euro.[22] According to President Thémereau, a consensus among the Territory's major political forces is a prerequisite for any decision with regard to the introduction of the euro. The EU demands it be simultaneously introduced into all three French Pacific territories following the formally expressed wish of their Governments.[23]

43. According to the administering Power, the agreement on disaster preparedness and emergency assistance between France, Australia and New Zealand once again proved its efficacy by providing assistance to Niue and Vanuatu, when those countries were hit by cyclones Heta and Ivy in 2004. In November 2004, a meeting of the signatories of the agreement took place in Papeete, Tahiti.[8]

44. In August 2004, President Thémereau headed the Caledonian delegation, which attended the 35th summit of the Pacific Islands Forum in Apia, Samoa. New Caledonia has enjoyed observer status at the Forum since 1999. In her *Déclaration de Politique Générale*, President Thémereau also announced her participation at the meeting of the Oceania regional programme on the environment, scheduled for September 2005 in Papeete, Tahiti. New Caledonia will host the 2005 meeting of the Pacific Islands Forum Ministerial Committee.

45. On the bilateral front, in 2004 New Caledonia received visits from Vanuatu's Ministers for Foreign Affairs and Agriculture. According to the administering Power, both Ministers requested further financial support from France and an opening of the New Caledonian market for beef exports. Additionally, in September 2004 an agreement was signed between New Caledonia and Vanuatu regarding research on the protection of the maritime world, while another agreement on the fight against illegal fishing is almost complete. A cooperation programme between the police forces of Vanuatu and New Caledonia, which includes training for the Vanuatu police in New Caledonia, was also initiated in 2005.[8]

46. The Australian Minister for Foreign Affairs visited Nouméa briefly in December 2004 to discuss the dismantling of customs protections for the New Caledonian market and to express his country's support for the implementation of the Nouméa Accord.[8]

47. In 2003, the New Caledonia Government decided that Japanese nationals could visit New Caledonia for 90 days without a visa. According to the administering Power, the French Foreign Minister proposed that China initiate negotiations on an agreement that would accord New Caledonia and French Polynesia the status of "approved tourist destination" for Chinese visitors.[8]

III. Economic data and developments

A. General

48. New Caledonia, with its considerable economic assets, ranks among the more affluent Pacific nations. New Caledonians, with an average annual per capita income of $12,800, enjoy one of the highest incomes in the Pacific region.[24] However, New Caledonia also suffers from long-standing structural imbalances between the economically dominant South Province and the considerably less developed North Province and the Loyalty Islands. Therefore, in the context of the Matignon Accords of 1988 (see A/AC.109/1000, paras. 9-14) and the Nouméa Accord, much of the efforts of the Government of France and New Caledonian institutions in the past decade have been aimed at *rééquilibrage*; that is, redressing the balance among the three provinces in terms of infrastructure, social services and employment opportunities. Accordingly, 70 per cent of State assistance to the Territory is earmarked for the North Province and the Loyalty Islands, with the remaining 30 per cent for the South Province. In January 2002, following the second meeting of the signatories of the Nouméa Accord, the French Government announced that its economic assistance to New Caledonia over the coming decade would be invested mainly in the nickel industry, tourism and education.[25] In addition, €19 million has been reserved for investment contracts between the French State and the local government units (*communes*) in the Territory. As at the end of 2003, 19 *communes* had signed contracts with the State, focused on road works, public buildings, new schools, water supplies, sanitation and waste disposal. Credits for the period 2000-2004 reached a total of €355 million, representing an increase of 25 per cent over the period 1993-1997.

49. According to information provided by the administering Power, the French State also continued to offer fiscal incentives to encourage investment in its Overseas Territories, as well as specific tax facilities, aimed at strengthening New Caledonia's metallurgy and mining sectors, hotel industry, housing, transport sector and public service concessions.

50. New Caledonia will, however, remain heavily dependent on direct financial transfers from France, which are equivalent to around 30 per cent of gross domestic product (GDP). Approximately 80 per cent of that amount is spent on health, education and the payment of public service salaries, with the remainder funding development schemes, mainly in the North and Island Provinces. According to the Economist Intelligence Unit, the announcement that the international cruise company P&O Cruises has decided to make New Caledonia its main port of call in an expanded cruise programme from Australia should have a positive effect on the tourist industry (see also para. 65). High world nickel prices during 2004 provided a significant boost to New Caledonia's mining revenue (see also para. 53).

51. The 2005 budget was approved by the territorial Congress. The centrepiece of the budget was an increase in the official minimum monthly wage to CFP110,000 (around $1,200) from CFP100,000. Taxes on businesses with annual profits of over CFP200 million ($2 million) will be raised to finance increases in family benefits and allowances.

52. Meanwhile, as discussed in paragraph 42 above, New Caledonia's currency, the Pacific franc, could be replaced by the euro within two years if all three French

Pacific Territories concur. The Chamber of Commerce has commissioned feasibility studies, and its Chairman has stated that the euro would facilitate trade, promote savings and attract foreign investment. On the other hand, the change is opposed by the pro-independence parties, which assert that, under the provisions of the Nouméa Accord, currency matters are to be a local competency, and a switch to the euro would serve only to bind New Caledonia more closely to France.[26]

B. Mineral resources

53. New Caledonia's economy is dominated by the nickel industry. The Territory, which is the third largest nickel producer in the world after the Russian Federation and Canada, is estimated to have at least 25 per cent of the world's nickel reserves[27] and is responsible for 6 per cent of the world's nickel output, employing some 3,500 people in mining firms of varying sizes. Although this highly dynamic sector makes up between 80 and 90 per cent of New Caledonia's exports and generates numerous related economic activities, it is fragile in that it is almost entirely dependent on international demand and nickel prices. For that reason, emphasis continues to be placed on the development of local metallurgical production, which creates more wealth, rather than on mineral exports. New Caledonia has benefited from higher global nickel prices in 2004, partly as a result of strong demand from China. Chinese demand increased 36 per cent in the fourth quarter of 2004, year-on-year.[28]

54. There are currently three major nickel-related projects under way in the Territory, namely, those of Société Le Nickel, Falconbridge Limited and the International Nickel Corporation (Inco) (see A/AC.109/2000/4, paras. 30-32; A/AC.109/2001/14, paras. 33-36; and A/AC.109/2002/13, paras. 36-37). While it is hoped that those projects will lead to significant economic growth, they are controversial and still face uncertainty especially in the case of Falconbridge Limited and Inco.

55. The first of the three projects is being developed by Société Le Nickel (the New Caledonian affiliate of the French State-owned company Eramet), which is investing between €140 million and €190 million in its Doniambo smelter to boost production from 60,000 to 75,000 tons per year. According to the French Government, the renovation, which implies the upgrading of one of Doniambo's three smelters and of another Société Le Nickel mine, at Tiebaghi, is scheduled to begin production in 2006.[29]

56. The second project under way is a joint venture between the Kanak-controlled Société Minière du Sud-Pacifique and the Canadian company Falconbridge Limited. The project will include the construction of a smelter in the North Province to process nickel from the Koniambo mountains. It is estimated that this smelter will produce some 60,000 tons per year, creating 800 jobs directly and 2,000 indirectly. It is also at the heart of a major project to bring wealth and employment to the underdeveloped North Province through the construction of an electric power plant, a deep-water port and a hydraulic dam. Production is not due to begin until the period 2008-2009, but the North Province government began construction of residential and commercial buildings in 2004 around the Koniambo site in order to prepare for the population increase that will occur when the mine opens.[29]

57. The third project by the Canadian company, Inco, for a new nickel mining and smelting project at Goro, South Province, resumed in early 2005, following long

delays. However, according to the Economist Intelligence Unit, demonstrations, environmental concerns and industrial disputes could hinder the project's progress. The arrest in February 2005 of two Kanak leaders over a blockade of the Goro Nickel mine construction site has raised concern about whether smooth implementation of the project can be achieved. After a two-day demonstration at the site, Raphael Mapou, an outspoken former politician, and André Vama, President of Rhebun Nuu, a group dealing with indigenous concerns, were arrested after riot police moved in to break up the demonstration. They were subsequently released, but must appear before a court in April 2005. Mr. Vama opposes the mine on environmental grounds, in particular the discharge of waste into the ocean. After the arrests, Inco, which had previously stated that it had reached an amicable agreement with landowners on environmental issues, had further talks with the two leaders, together with officials of territorial and South provincial governments. Mr. Vama has the backing of pro-independence FLNKS, but is opposed by some Kanak chiefs from the South Province. One clan leader, Hilarion Vendegou, claimed that opposition to the mine was harmful to his people's long-term economic interests.[28]

58. The three provinces have each signed up to acquire a total share of 10 per cent in Goro Nickel. The share was originally held by the French Government's mining and geological research department. Notwithstanding further delays, the mine is due to open in 2007 and is expected to eventually produce 60,000 tonnes of nickel and 5,000 tonnes of cobalt per year.[30]

59. The debate over the impact that new nickel projects will have on New Caledonia's pristine maritime environment began some years ago. However, after two years of controversy, the French Government has agreed to lobby for New Caledonia's coral reef system (the largest after the Great Barrier Reef in Australia) to be listed in the United Nations Educational, Scientific and Cultural Organization World Heritage List. The decision to seek World Heritage listing was supported by the Kanak-dominated North and Loyalty Islands Provinces but was opposed by the South Province, as the provincial government and the business sector feared that the listing might prejudice the development of the Goro Nickel mine. They also claimed that World Heritage status offered no tangible benefits to the Territory.[28] The Kanaks believe that mining rights are being sold off cheaply, that the economic benefits are not flowing to the poorer areas of the Territory and that development will damage the local environment. The reef is 1,600 kilometres long and covers about 8,000 square kilometres. It is regarded by scientists as having great research potential and it is also a major tourist attraction.[28]

C. Other economic sectors

60. Other sectors that contribute to New Caledonia's GDP are public administration, commerce, services, construction and public works, small- and medium-scale industry, agriculture and tourism.

61. The agriculture and fishery sectors account for only 2 per cent of GDP, but, increasingly, they occupy a central place in New Caledonian society, employing some 30 per cent of the population and making it possible to contain the rural exodus. Rural development projects are aimed at increasing the local market, thereby decreasing the need for imported food. Fisheries are underdeveloped, with commercial fishing accounting for only a third of the total catch, most of it tuna

exported to Japan. However, the North Province and Loyalty Islands authorities are expanding their fishing fleets and aquaculture has expanded rapidly in the past 10 years.[31]

62. The aquaculture industry, which mainly farms shrimp for export, has been ruffled by a dispute between the two largest producers, South Pacific Applied Geoscience Commission (SOPAC), which is subsidized by the French Government and the privately owned Blue Lagoon. SOPAC has objected to a decision by the territorial Government to grant Blue Lagoon the same tax breaks it has benefited from for 20 years on the grounds that the market is too small for two producers. SOPAC claims it could be driven out of business by Blue Lagoon, which has won a five-year contract to supply one of France's largest supermarket chains. The industry has been warned by a French research institute that the shrimp stock, originally imported from South America, needs fresh genetic input from a species to be imported from Hawaii, if breeding rates are to be maintained.[28]

63. Tourism is regarded as another important sector, but the improvement of airline services must remain an important priority for the Territory if tourism is to be developed further. According to information provided by the administering Power, tourist arrivals dropped 3.9 per cent, from 82,862 to 79,618, during the first 10 months of 2004 year-on-end.

64. A strategic plan to revive the tourism industry has been commissioned by the Government and is due for publication in mid-2005. Tourist arrivals peaked at 209,000 in 2000, but subsequently slumped to around 100,000 a year. According to the Economist Intelligence Unit, the decentralization of tourism marketing activities to the provincial tourism offices proved a failure and responsibility for tourist-related promotional activities was restored to the national tourist office at the start of 2005. However, the downturn in the sector is mainly attributable to a fall in the number of Japanese tourists, the mainstay of the industry. An ongoing dispute between the territorial Government and the Pacific Blue Airlines, owned by the Australian airline Virgin Blue, also means that New Caledonia has been unable to benefit from the boost to tourist arrivals that other Pacific island nations have enjoyed following the launch of cheaper flights. Pacific Blue claims that the airport charges that it faced were not only high compared with other destinations in the region, but much higher than the rates paid by its rival, the New Caledonia national carrier, Aircalin. As a result, Pacific Blue's planned launch of twice weekly service from Brisbane, Australia, has been suspended.

65. An international cruise company, P&O Cruises, has decided to make New Caledonia its main port of call in an expanded cruise programme from Australia. As a result, the number of visits by P&O Cruises ships operating from Australia will increase from 120 in 2005 to 183 in 2006, while visits to the Loyalty Islands will increase from 19 this year to 59 in 2006. All three liners on the route will sail to a new port, Ouvéa, starting with the company's newest ship, the Sydney-based *Pacific Sun*, in May 2005, to be followed by the Brisbane-based *Pacific Sky* in August 2005. The luxurious *Pacific Princess* cruise ship, which is based in Sydney from November to April each year, will begin visiting Ouvéa in the summer of 2005/06. New Caledonia is now P&O Cruises' most frequently visited destination in the region, with the Territory receiving almost half of all port visits made by the company's three Australia-based liners. A third Loyalty Islands port, Maré, will be

added to the company's growing portfolio of New Caledonian destinations in the near future. Other calls are made at Nouméa, Emerald Bay and the Isle of Pines.[28]

D. Labour

66. According to information provided by the administering Power, 9,460 persons were unemployed at the end of September 2003, an improvement of 1.6 per cent compared to 2002. The same source noted that labour disputes are frequent in New Caledonia, leading to many hours of lost productivity owing to strikes and lockouts. Despite the more conciliatory stance of the AE-led Government towards the Kanak population, industrial disputes and strikes, which are sometimes accompanied by violence, will remain a feature of the economic and political scene.[28]

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

67. According to the administering Power, New Caledonian Government officials were not able to participate in the Special Committee's Pacific regional seminar, held in Madang, Papua New Guinea, from 18 to 20 May 2004, given the proximity of the territorial elections. However, a representative from FLNKS and one from the Agence Kanak de Développement attended the seminar. In his statement, Sarimin Boengkih, of Agence Kanak de Développement, listed his concerns about the strategies of the Territory's administering Power. In particular, immigration policies, which resulted in an influx of people with voting rights, had changed the make-up of the population in New Caledonia and, thus, the influence of the Kanak. He referred to the Nouméa Accord currently being implemented, which had created three provinces of New Caledonia, and was seen as an important step towards self-governance. Mr. Boengkih discussed problems that might arise should France decide to call a referendum on self-determination to be organized separately in each province. He raised concerns regarding use of natural resources, in particular with regard to mining in New Caledonia, and what he termed the division and marginalization of indigenous populations. The implications of military occupation in New Caledonia were also mentioned. A representative of France, observing the seminar, remarked that racism was a concern his Government would need to look into, owing to the disparity of the New Caledonian population. According to information submitted by the administering Power, France called the claims that New Caledonia had become increasingly militarized a contradiction of reality. It also noted that it perceived the statement that France had agencies in France working to foster the installation of French mainland settlers in the Territory as irresponsible and baseless.[8]

68. The Special Committee considered the question of New Caledonia at its 7th meeting, on 16 June 2004 (see A/AC.109/2004/SR.7). During the meeting, the representative of Papua New Guinea introduced draft resolution A/AC.109/2004/L.9. The Special Committee adopted the draft resolution without a vote.

B. Special Political and Decolonization Committee (Fourth Committee)

69. At its 8th meeting, on 12 October 2004, the Fourth Committee decided to defer for 48 hours action on the draft resolution entitled "Question of New Caledonia". At its 10th meeting action on the draft resolution was deferred once again until 18 October 2004. At the 11th meeting of the Special Political and Decolonization Committee (Fourth Committee), on 18 October 2004, the representative of Papua New Guinea proposed an amendment to operative paragraph 8, by which the words "of all New Caledonians, especially the indigenous Kanak people" be replaced by the words "and identity of all sectors of the population". At the same meeting, the Committee adopted the draft resolution entitled "Question of New Caledonia" as orally revised without a vote (see A/C.4/59/SR.11). At the same meeting, the representative of France made a statement in support of the amendment (see A/C.4/59/SR.11).

C. General Assembly

70. At its 71st plenary meeting, on 10 December 2004, the General Assembly adopted resolution 59/132 on the question of New Caledonia without a vote (see A/59/PV.71).

Notes

[1] The information contained in the present report has been derived from information transmitted to the Secretariat by the Government of France on 22 January 2003 and from published sources.

[2] Pacific Islands Report, 1 September 2004 and 20 September 2004 and 10 December 2004.

[3] Institut de la Statistique et des Études Économiques Nouvelle Calédonie (see www.itsee.nc); Economist Intelligence Unit, Country Profile New Caledonia 2004 (see www.eiu.com).

[4] Conclusions of the Committee of signatories of the Nouméa Accord, 20 January 2005.

[5] Oceania Flash, 12 April 2002.

[6] Senate of the French Republic (see www.senat.fr).

[7] European Court of Human Rights, Judgement No. 66289/01, Py v. France (see www.echr.coe.int).

[8] Administering Power, "L'evolution de la Nouvelle Caledonie en 2004".

[9] Assemblée Nationale, report No. 1868, 13 October 2004.

[10] Pacific Islands Report, 23 June 2004.

[11] Economist Intelligence Unit, Country Report New Caledonia, December 2003.

[12] Pacific Islands Report, 9 July 2004.

[13] Ibid., 13 July 2004.

[14] Pierre Frogier, speech delivered to the French National Assembly, 9 November 2004.

[15] Marie-Noëlle Thémereau, "Déclaration de Politique Générale", 17 August 2004.

[16] Agence France-Presse, 22 April 2002; *Le Monde*, 23 April 2002.

[17] Oceania Flash, 17 June 2002.

[18] Economist Intelligence Unit, Country Report New Caledonia, September 2004 and March 2005.

[19] Pacific Islands Report, 12 January 2005.

[20] Oceania Flash, 11 November 2002 and 23 December 2002.

[21] European Commission, EC04-195EN, 30 July 2004.

[22] Communauté financière du Pacifique franc (CFP fr): 1 euro = 119.2 CFP.

[23] Marie-Noëlle Thémereau, "Declaration de Politique Générale", 17 August 2004; Conclusions of the Committee of signatories of the Nouméa Accord, 20 January 2005.

[24] *L'Humanité*, 3 January 2003; Virtual Information Center, 30 January 2004 (see www.vic-info.org).

[25] Agence France-Presse, 22 January 2002; Economist Intelligence Unit, 21 March 2002.

[26] Oceania Flash, 23 October 2002; Economist Intelligence Unit, *ViewsWire*, 18 December 2002; Economist Intelligence Unit, Country Report New Caledonia, March 2005.

[27] Economist Intelligence Unit, December 2002.

[28] Ibid., March 2005.

[29] Ibid., December 2003.

[30] Inco Limited, 18 February 2005 (see inco.com).

[31] Economist Intelligence Unit, Country Reports, December 2002 and December 2003.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

St. Helena

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1–4	3
II.	Historical background	5	3
III.	Constitutional and political background and developments	6–28	4
IV.	Economic conditions	29–46	8
	A. General	29–30	8
	B. Assistance from the United Kingdom of Great Britain and Northern Ireland	31–34	8
	C. Development projects	35–36	10
	D. Agriculture and fisheries	37–38	10
	E. Transport, communications and utilities	39–42	11
	F. Banking and credit	43	11
	G. Tourism	44–46	11
V.	Social conditions	47–52	12
	A. General	47	12
	B. Employment	48–49	12
	C. Education	50–51	13
	D. Environment	52	13

05-30233 (E) 020505

VI.	Dependencies of St. Helena	53–65	13
	A. Ascension	53–58	13
	1. General	53	13
	2. Constitutional and political status	54–57	14
	3. Economic and social conditions	58	15
	B. Tristan da Cunha	59–65	15
	1. General	59–60	15
	2. Constitutional and political status	61–63	15
	3. Economic and social conditions	64–65	16
VII.	Future status of the Territory	66–76	16
	A. Position of the administering Power	66–74	16
	B. Position of the Territory	75–76	18
VIII.	Consideration of the question by the United Nations	77	18

I. General

1. The Territory of St. Helena,[1] which is administered by the United Kingdom of Great Britain and Northern Ireland, consists of the island of St. Helena and two dependencies: the island of Ascension and a group of small islands forming the dependency of Tristan da Cunha.

2. Situated in the South Atlantic Ocean, approximately 1,900 kilometres from Angola and 2,900 kilometres from Brazil, St. Helena is a small island of volcanic origin. The Territory comprises a total land area of 412 square kilometres: Ascension lies 1,200 kilometres to the north-west of St. Helena, and Tristan da Cunha and the other small islands are approximately 2,400 kilometres to the south. The island of St. Helena, where Jamestown, the capital of the Territory, is located, is the largest island, with an area of 122 square kilometres. The islands enjoy a tropical climate tempered by trade winds that blow throughout the year. They have distinctive flora and fauna, with many rare or endangered species.

3. The inhabitants of St. Helena are known as "Saints" or St. Helenians and are of mixed origin (see para. 4 below). According to the 1998 census, 5,010 people lived on St. Helena. However, as of July 2003, the St. Helena Statistics Office estimated that there were from 3,750 to 3,800 inhabitants on the island, meaning that a quarter of the population had left in just over five years. The Office noted that, following the reintroduction of granting British citizenship for Saints in 2002, the island had experienced an exodus. In 2004, the population was estimated at 3,900 inhabitants.[2] While it is difficult to provide any exact forecast of the future population, it is likely that the high emigration numbers will be reduced, since most people with a desire to leave the island have already done so and the population in the age groups most likely to leave has been depleted.[3] Approximately one third of the population resides in Jamestown. English is the official language of St. Helena. Access to St. Helena is provided by the *Royal Mail Ship St. Helena*, which serves St. Helena, Ascension, Walvis Bay, Namibia, and Cape Town, South Africa. The nearest airstrip is located on Ascension.

4. Following extended consultation between the government of St. Helena and the Department for International Development of the Government of the United Kingdom, it was announced in March 2005 that the Department would provide funding for the construction of an international airport on St. Helena. The airport should be operational by 2010.[4]

II. Historical background

5. St. Helena was discovered in 1502 by the Portuguese navigator Juan da Nova on St. Helena Day, 21 May. It was an uninhabited island. Its existence was kept secret until the English seafarer Thomas Cavendish came upon it in 1588. In 1633 the Netherlands claimed the island but did not occupy it. In 1658 a charter from the Lord Protector of Britain authorized the British East India Company to colonize and fortify the island, which was subsequently settled by the English. Slaves were brought from Africa, Madagascar and the Far East. Chinese and some Indian indentured labourers were brought to work on the island. King George II issued a charter to the East India Company setting out how the island should be fortified and governed. In the charter, the King also gave the inhabitants full English citizenship

in perpetuity. Napoleon Bonaparte was exiled to St. Helena from 1815 until his death in 1821. St. Helena became a Crown Colony in 1834. In May 2002 St. Helena celebrated the 500th anniversary of its discovery.

III. Constitutional and political background and developments

6. The St. Helena Constitution Order of 1988, which entered into force on 1 January 1989, replaced the Constitution of St. Helena and dependencies introduced on 1 January 1967. Under the 1989 Constitution, the Governor and Commander-in-Chief, who is appointed by the Queen, administers the Territory. He is assisted by an Executive Council and a Legislative Council.

7. The Legislative Council comprises the Speaker, three ex officio members (the Chief Secretary, the Financial Secretary and the Attorney General) and 12 elected members. The Executive Council, which is presided over by the Governor, consists of the ex officio members and five of the elected members of the Legislative Council. Although a member of the Legislative Council and the Executive Council, the Attorney General has no vote in either body.

8. Elections are held by secret ballot, at intervals of not more than four years, by universal suffrage for those aged 18 years and over. While two political parties exist, they have been inactive since 1976 and elections have been held on a non-partisan basis. The most recent general elections were held on 27 June 2001, when 12 candidates representing eight constituencies were elected to the Legislative Council. The next election is scheduled for June 2005. In October 2004, Governor David Hollamby was replaced as Governor of St. Helena, Ascension and Tristan da Cunha by Michael Clancy.

9. The Constitution of St. Helena provides for the separation of the judiciary from the Government. The legal system comprises a Court of Appeal, a Supreme Court and a Magistrate's Court, with a final appeal procedure lying open to the Privy Council of the United Kingdom. Local legislation is generally applied. However, where no local legislation has been enacted, the laws of the United Kingdom are applied to the extent applicable to local circumstances.

10. In January 1983, when the British Nationality Act came into force, St. Helenians had their citizenship rights taken away. From that time until 2002, the islanders have been working through the Legislative Council and a Citizenship Commission for the restoration of their rights. Following the entry into force of the United Kingdom Overseas Territories Act of May 2002, which provides British citizenship to the people of the United Kingdom's Overseas Territories, St. Helenians regained their right to British citizenship. Under the Act, St. Helenians may hold British passports and may also work anywhere within the European Union.

11. Extensive negotiations and public consultations in relation to constitutional reform and modernization have been carried out in St. Helena over the past five years. Desiring a system of government that would give more responsibility to locally elected representatives, the government of St. Helena entered into discussions with the United Kingdom and engaged the services of an independent constitutional adviser, Ms. Alison Quentin-Baxter, to assist with examining options for constitutional reform and drafting a new constitution for the Territory.

12. Ms. Quentin-Baxter, a barrister of the High Court of New Zealand and an expert on small territories, visited St. Helena in September and October 2002 and again in April and May 2003. In her capacity as independent constitutional adviser to the people of the Territory, with funding provided through the Commonwealth Secretariat, Ms. Quentin-Baxter, after a wide-ranging consultation process, presented an issues paper in October 2002 entitled "St. Helena and its dependencies: exploring options for their future constitutional development".

13. On 11 October 2002, following discussions with the independent adviser, the speaker of the Legislative Council announced that the Legislative Council would put proposals for constitutional change before the public to see if they were well supported. The key features of the Legislative Council's proposals for constitutional change were, as reported in the media,[5] a three-tier system of ministerial government (comprising a Legislative Assembly, a Cabinet (with the Chief Minister as President) and an Executive Council (with the Governor presiding)), Legislative Assembly elections conducted partly on a multi-constituency and partly on an island-wide basis, the popular election of the Chief Minister and the inclusion of a bill of rights.

14. Following the visit by Ms. Quentin-Baxter in May 2003, at which time there were also ongoing negotiations with a visiting team from the Foreign and Commonwealth Office, a revised proposal was put forward, which, based on the 2002 proposal, included the election of all members of the Legislative Assembly by an island-wide vote and the election of the Chief Minister by members of the Legislative Assembly only. Disagreement remained, however, regarding the proposed three-tier system of ministerial government, which would allow the Governor less power than the two-tier system preferred by the United Kingdom.

15. Subsequent negotiations with the Foreign and Commonwealth Office resulted in a consensus on a draft heads of agreement and a two-tier ministerial system in which the Governor would preside over the Executive Council. The consensus was reached with reservation in April 2004, subject to the request by the St. Helena Government for the United Kingdom to reconsider its position on the retention of reserve legislative powers of the Governor.[6] In June 2004, the United Kingdom agreed to the new constitutional arrangement not conferring reserved legislative powers on the Governor, but insisted that the Governor have the ability to challenge a decision made by the St. Helena Government by applying to have the matter dealt with by an Order in Council in the United Kingdom Parliament when necessary.[7]

16. In September 2004, Mr. Anthony Green was appointed as the Constitutional Change Coordinator and in February 2005 he announced that a "consultative poll" would be held in St. Helena on 25 May 2005 to determine whether St. Helenians would want to adopt the new constitution proposed in the Heads of Agreement. It has been stressed that the United Kingdom will not bring the new constitution into force until it receives a clear signal from St. Helenians that they wish to adopt the draft constitution. It has also been highlighted that, although it would be ideal to have the new constitution in place in time for the next general election, scheduled for September 2005, the new constitution would not be brought into force until St. Helena is ready for it and, therefore, the timetable of implementation is flexible.

17. Eligibility to vote in the consultative poll is being extended beyond the usual electoral role. People who are not on the Register of Electors but who are citizens of British Dependant Territories, British citizens or British overseas citizens, over 16

years of age and who have St. Helenian status or fulfil a residency requirement may vote in the consultative poll. The eligibility criteria for the consultative poll are the same as those applied in the Access Poll undertaken in 2002, with the exception of the residency requirement, which has been reduced.[8]

18. According to media reports, the new constitution proposes three main changes to the existing constitutional system in St. Helena:

- Government by reference to the partnership values
- New guarantees of fundamental human rights
- A ministerial form of government

19. In recognition of shared British citizenship, the relationship between the United Kingdom and St. Helena would be based on the partnership values set out at the beginning of the draft constitution. The partnership values are: good faith; the rule of law; good governance; sound financial management; the impartial administration of justice; the political neutrality of the St. Helena Public Service; the maintenance of public order; compliance with the international obligations of the United Kingdom and St. Helena; the maintenance of international peace and security; and the country's right to self-defence. The human rights guaranteed in the draft constitution and protected by the powers of the Supreme Court include the right to life, the right to a fair trial, the right to privacy, the right to freedom of conscience, the right to freedom of expression, the right to education (including free primary education), the right to freedom of association and protection from discrimination.

20. The two-tier system of ministerial government set up in the draft constitution comprises a Legislative Assembly and an Executive Council. The Legislative Assembly would replace the existing Legislative Council and would consist of 12 elected representatives and the Speaker and Attorney General (neither of whom would have a vote). The 12 elected representatives would be elected on an island-wide basis by all registered voters in a single constituency, in contrast to the current multi-constituency voting. A general election would be held at least every four years. The Legislative Assembly would be responsible for debating and passing (by majority) any new laws for St. Helena and could debate any other matter. The Executive Council would be comprised of the Chief Minister and three or four Ministers and the Attorney General (who would not have a vote). The Chief Minister (the Head of Government) would be elected by the Legislative Assembly by secret ballot and receive at least 7 of the 12 votes. Three or four Ministers would then be chosen by the Chief Minister from among the elected members and would be designated portfolios. The Ministers and Chief Minister would be formally appointed by the Governor. Any three members of the Legislative Assembly could move to have a vote of no confidence if they felt that the Chief Minister and ministers had lost the confidence of the Assembly. A vote of no confidence carried by seven or more of the elected representatives would result in all the Ministers losing their posts.

21. Although the Executive Council could meet without the Governor, its function would be to advise the Governor on government policy and on the general direction and control of the government. The Executive Council would be collectively responsible to the Legislative Assembly (and through it, to the electorate) for advice it gives to the Governor and for all actions taken by or under the authority of any

Minister. The Governor would have to act in accordance with the advice of the Executive Council unless it was considered that the advice was inconsistent with a partnership value. In such a case, the Governor would then be obliged to obtain the approval of the United Kingdom to not follow that advice.

22. The draft constitution significantly reduces the areas of responsibility of the Governor. Under the draft constitution, the Governor alone has responsibility for internal security (including policing), external affairs and defence. Although the Governor is obliged to consult with the Executive Council regarding actions to be taken in these areas, he is not required to follow the advice given. Under the draft constitution, there would no longer be a Chief Secretary, but a new office of Deputy Governor would be created to assist the Governor in the exercise of his or her functions. Although the first Deputy Governor would be from the United Kingdom Foreign and Commonwealth Office, either a local or a person based in the United Kingdom could hold that position in the future.

23. The responsible ministerial form of government would necessitate reform of the public service and the relationship between the departments and the government. Each department or ministry would have a permanent secretary who would act as the chief policy adviser to the Minister on matters within the responsibility of their department. Subject to the general direction and policy control of the relevant Minister, permanent secretaries would be responsible for the administration of departments.[9]

24. Concerns have been raised in the Territory regarding whether the Territory will be able to support the costs of a ministerial government and whether there is a sufficient number of adequately qualified people willing to stand for election. During the public consultations, disappointment was also expressed that the only option proposed was the ministerial form of government.[10]

25. A review on modernizing government, funded by the Department for International Development, was held in the latter part of 2004. The review was initiated to examine how the public service would have to be restructured to accommodate a ministerial system of government under the new constitution. Two of the primary questions under consideration were whether departments should be regrouped into ministries and how many permanent secretaries there should be. The existing heads of departments gathered for the review undertook consideration of the issues and made recommendations to elected Members as to the restructuring that they considered would work best. It would be the role of the Chief Minister to undertake such restructuring, were the new constitution to be adopted.[11]

26. In the context of the ongoing dialogue on the future of St. Helena at the end of 2002, the Legislative Council publicized 13 proposed strategic objectives that would allow the government to negotiate its new three-year aid agreement for the period from 2004 to 2007 with the United Kingdom (A/AC.109/2003/4, para. 17). A scheduled visit to St. Helena by representatives of the Department for International Development and the Foreign and Commonwealth Office to discuss the new aid agreement took place in the second quarter of 2004.[12]

27. In May 2003, following discussions with the population of the island, the St. Helena government approved the following six strategic objectives for the island:

- Improved access
- Improved standard of education

- Development of a sustainable and vibrant economy
- Development of a healthy community in a safe environment
- Promotion and development of a sustainable workforce
- Continuing development and establishment of democratic rights, human rights and self-determination of the people

28. The review document played an important role during budget discussions with the Department for International Development and the Foreign and Commonwealth Office as it demonstrated what St. Helena wanted to achieve and how it intended to do so.

IV. Economic conditions

A. General

29. In the 2004 budget speech, the acting Financial Secretary announced that while the economy of St. Helena continued to struggle, that there was evidence that it had finally begun to stabilize. However, the Territory still faces problems associated with a shrinking tax base, an ageing population and the exodus of skilled individuals leaving in pursuit of higher wages offshore. St. Helena's heavy dependence on aid from the United Kingdom and other external funding for capital and technical investment allows the population to enjoy a higher standard of living than local resources would be able to sustain. In 1999, after lengthy consultations, the government of St. Helena issued its strategic review for the period from 2000 to 2010. As the economy is heavily dominated by the government sector, with some 70 per cent of the workforce employed by government-owned enterprises, the main focus of the review is public-sector reform and private-sector development. Also outlined are options for St. Helena to generate sustainable wealth through internal investment, tourism, exports and import substitution. It is hoped that the international airport to be constructed on St. Helena, which is due to be operational by 2010, will provide a significant boost for the Territory's economy. It is expected that increased tourism and inward investment will flow from the improved access arrangements.[13]

30. In the 2004 budget speech, the government announced policies to develop the private sector as the future economic base of the Territory. These policies included the contracting out of government services, vocational training as part of the long-term policy for employment, developing access to the Territory and the fiscal review that was undertaken in August 2004 with a view to reforming the tax system and developing a more liberal inward investment policy in the Territory.[14]

B. Assistance from the United Kingdom

31. St. Helena is heavily reliant upon the United Kingdom for financial assistance. In the budget for the 2004/05 fiscal year, expenditures were estimated at £18.561 million, while local revenue was estimated at £5.843 million. Almost the entire £12.718 million shortfall was expected to come from grants-in-aid from the United Kingdom.[15] The £13 million in budgetary support from the United Kingdom is used to meet essential public services and to subsidize the Territory's dedicated shipping

service.[16] In real terms, aid from the United Kingdom has declined over the last decade, and this has had an effect on the St. Helena economy. As well as supporting the government's annual budget, much of the capital investment in the Territory is funded through the Department for International Development.[17] Between 1997 and the end of the financial year 2003/04, it was estimated that the Department's bilateral spending on St. Helena totalled over £244 million.[18]

32. The proposed international airport on St. Helena will be funded by the Department for International Development subject to satisfactory bids for a contract to design, build and operate as well as a rigorous environmental impact assessment. The cost of undertaking such a project has not been disclosed, as the Department considered that disclosure of cost estimates could prejudice the competitive tender process. However, in June 2001, a consulting company appointed to undertake a comparative cost study of air and sea access indicated that a single runway would cost more than £38 million, while a dual runway would cost £50 million. The replacement cost of the *RMS St. Helena* was estimated at £26.3 million.[19] The Department noted that, in considering the access challenges of St. Helena, they had examined whether it would be more economically efficient and sustainable in the long term to invest in a replacement for the ship when she reaches the end of her working life around 2010 or to invest in an airport. A replacement for the *RMS St. Helena* would have required significant capital investment and the Department was of the view that they would have had to continue subsidizing operations for the foreseeable future, whereas, while establishing air access will be more costly initially, it is hoped that it will provide St. Helena with the opportunity to develop its tourist industry and promote economic development in other sectors, eventually leading to the island's financial self-sufficiency.[20]

33. In 2003, the Foreign and Commonwealth Office established an economic diversification programme budget to assist the Overseas Territories to diversify and enhance their economic base and thereby lessen their dependence on one or two sectors. It provides a source of funding to support small enterprises and entrepreneurial talent to launch new business activities in the Overseas Territories, in particular, but not exclusively, in non-traditional areas. Financing from the programme budget has been used to set up a small business expansion scheme in St. Helena, worth £150,000 per annum for three years.[21] In March 2004, the St. Helena Companies Registry was opened in Jamestown. Companies operating in St. Helena can now be incorporated in the Territory.[22]

34. In May 2004, the Department for International Development and the government of the Territory reached an agreement regarding the island's development assistance needs for the three-year period from mid-2004 to mid-2007. In an aide-memoire, it was recorded that the programme manager of the Department for International Development was to recommend to the United Kingdom Ministers the provision of £37 million to St. Helena for budgetary support, development projects, technical cooperation and a shipping subsidy over the next three years. As part of the agreement, the government of St. Helena agreed to a review of the fiscal regime, the adoption of appropriate pricing policies and the introduction of compulsory competitive tendering.[23] While the Under Secretary of State of the United Kingdom was able to accept the recommendation for the 2004/05 financial year in full, it was decided to review the requirements for the following two years at a later stage. In January 2005, it was announced that the Department's aid mission would return to St. Helena in March 2005.[24]

C. Development projects

35. St. Helena also receives assistance from the United Nations Development Programme (UNDP). The second UNDP country cooperation framework for St. Helena (see DP/CCF/STH/2), covering the period from 2001 to 2004, was extended to cover 2005 and 2006 also. Resources allocated for the extended period amount to United States $114,000. Thus far, UNDP notes as principal achievements the technical support provided to the island's Development Office, particularly in the areas of environmental management, the expansion of Internet and Intranet networks for the government, the procurement of remote sensing equipment to enable St. Helena to monitor offshore fishing in its territorial waters and the improvement in the quality of the Territory's drinking water. Continuous progress has been made in skills training for tourism and related areas, such as sign production and catering as well as improvement in services provided by the island's Tourism Office. UNDP has also funded a project to provide services for the elderly and disabled so as to help them remain within the community. This project contributed significantly to raising awareness among government representatives of the needs and rights of the elderly and disabled.

36. St. Helena is also eligible to receive funds from the European Union. Between 1995 and 2003, St. Helena was allocated 14.35 million euros from European Union funds.[25] Representatives of the island attended the European Union-Overseas Countries and Territories Forum held in French Polynesia in December 2004. In July 2004, the European Commission announced that €8.6 million had been allocated to St. Helena from the European Development Fund for the period from 2004 to 2007 to improve access to the island in order to promote economic development and thus contribute to the reduction of aid dependency.[26]

D. Agriculture and fisheries

37. Fisheries are an important sector in St. Helena's economy. In 2004, two St. Helenian fishing vessels developed the capacity to fish beyond the 12-mile inshore waters of the island's 200-mile exclusive economic zone. There are 30 fishing boats with commercial licences, but only 12 work full-time. The local fishermen sell their catch to the St. Helena Fisheries Corporation. Fish catches were up significantly in 2004 and were forecast to be in excess of 500 tons.[27] A number of international companies have been granted licences to fish in the waters off St. Helena and Ascension and these licences have contributed up to 20 per cent of all local revenue. However, licence revenue derived from foreign fishing vessels has decreased drastically over the past few years.

38. St. Helena is developing a reputation for high-quality export products, including coffee and fish. St. Helena coffee is considered one of the highest quality, premium coffees in the world. St. Helena's fish have become the first wild fish to receive organic certification from the Soil Association, the United Kingdom's leading campaigning and certification organization for organic food and farming.[28]

E. Transport, communications and utilities

39. St. Helena has more than 100 kilometres of surfaced roads. A public transport system, still in a developmental stage, was launched in November 2003 by the St. Helena Government.

40. The only port, Jamestown, provides good anchorage, although the building of a breakwater would allow passengers of large cruise vessels to come ashore in all types of weather. Since there is currently no airport or airstrip on the island, the island's only link with the outside world continues to be the *RMS St. Helena*, owned and chartered by the St. Helena Shipping Company, Ltd., which plies between St. Helena, Ascension, Walvis Bay, Namibia, and Cape Town, South Africa.

41. The announcement by the Department for International Development of its agreement to fund the construction and operation of an international airport on St. Helena, following protracted consultations between the Department and the government of St. Helena, was welcomed in the Territory. The proposed airport will be located on Prosperous Bay Plain on the eastern side of the island. The airport will have a runway 2,250 metres long, which is sufficient to support the landing of long-haul jet aircraft, including the Airbus A320 and Boeing 737-800. The new airport is expected to be operational by 2010, around the same time that the *RMS St. Helena* will be ready to be retired.[29]

42. At the St. Helenian National Economic Forum seminar, held in January 2005, a new government initiative on working in partnership with private sector entrepreneurs in the delivery of utilities to housing plots and planning for new ready-serviced housing plots was discussed.

F. Banking and credit

43. In April 2004, the Bank of St. Helena was opened, making a transition from the Government Savings Bank. The transition marked the establishment of the Territory's first commercial lending operation. According to the government, the main objectives in moving the Bank away from direct government control were to increase public confidence, to provide a customer focus to banking, to expand the services that could be offered and to act as a catalyst for private sector business. Following the opening of the Bank, 300 new accounts were opened, generating £2 million in bank deposits. The Bank started to offer services that were not previously available, including a competitive interest rate on deposits and bank transfers. The Bank was able to provide lending facilities to local businesses and individuals, which has enabled a marked increase in house building on St. Helena.[30]

G. Tourism

44. The Government has placed a renewed focus on developing the tourism sector to revitalize the St. Helenian economy. The agreement by the Department for International Development to fund an international airport on St. Helena is expected to stimulate tourism to the island to the extent that the income generated will contribute to enabling St. Helena to relinquish its dependence on aid from the United Kingdom.

45. In February 2005, the Government announced that, in conjunction with the company Shelco, it will be working to achieve the following objectives:

- A self-sufficient tourist-based economy
- Policies to generate high-value, low-volume tourism
- Maintenance and enhancement of the environment to support the development of tourism
- The creation of a flagship resort, comprising a five-star hotel, golf course and villas
- The setting up of joint public/private sector arrangements, including tourist facilities and essential services to help promote tourism in the Territory.[31]

46. The St. Helena Tourist Office has been boosting its efforts to market St. Helena as a tourist destination. Initiatives undertaken include the engagement of a marketing company to advise on ways to market the Territory, entering into discussions with tour operators regarding selling St. Helena as a destination, advertisements in various publications and television coverage.[32]

V. Social conditions

A. General

47. The team of representatives of the Department for International Development and the Foreign and Commonwealth Office who negotiated the country policy plan for 2001 through 2003 stated that, measured by international norms, St. Helena is a middle-income country with few signs of real material poverty. The team added that this situation is largely the result of the all-encompassing Government safety net, which guarantees everyone a minimum standard of living, and to social networks, which encourage the distribution of income among kin, most notably in the form of remittances. The country policy plan identifies two particularly vulnerable sectors, namely, the increasing number of elderly people (expected to be 24 per cent of the population by 2010), who live on social benefits, and the disabled, who have special, unmet needs. It also points to a "culture of dependency" on the island, partly as a consequence of the government's role as the main employer and almost the only provider of services.

B. Employment

48. As a result of the dependence on imports, the paucity of exports and the small size of the internal market, there are limited employment opportunities on St. Helena. The public sector remains the dominant employer. In October 2003, the government launched a long-term unemployment policy, in which the Employment and Social Security Department has been working closely with the unemployed to identify their training needs. Since the introduction of the new scheme, only 19 people have applied for unemployment benefits. In March 2005, there were 90 people still employed on the old community work scheme and four people on the new employment scheme.[33]

49. Offshore employment has steadily increased and, with it, remittances to the Territory. Some 30 per cent of the island's workforce is employed on Ascension, the Falkland Islands (Malvinas) and the United Kingdom; their remittances to St. Helena total £2 million per year. However, as virtually all contracts for offshore employment are for unaccompanied workers, there is a significant social burden because of the dislocation of families. In addition, the loss of trained staff to better-paid offshore employment makes it necessary to bring in more expatriate workers, in particular nurses and teachers. The St. Helena Strategic Review for the period from 2000 to 2010 showed that remittance from offshore workers was not sustainable and very clearly spelled out the dire consequences if people were not put at the centre of development, stating that no community could prosper if its biggest export was its people.[34]

C. Education

50. Education is compulsory and free for children between 5 and 15 years of age. In 2004, there were 7 schools in operation in the Territory, attended by a total of 749 pupils.

51. The introduction of British standardized tests in English and mathematics in the first and middle sections of school have shown that the majority of pupils score lower than their British counterparts. Results from the secondary school examination for students 16 years of age and over show that these pupils are also seriously underachieving, with fewer than 12 per cent of them each year attaining the minimum 5 qualifying grades for the general certificate of secondary education or its equivalent, compared with 40 per cent in the United Kingdom. These problems have been attributed in part to the high level of staff turnover and staff members' lack of qualifications and experience.[35]

D. Environment

52. St. Helena has an environmental conservation programme aimed at preserving endangered species and the diversity of habitats, which are an important part of the Territory's heritage and could potentially increase tourism. The World Conservation Union lists 40 per cent of St. Helena's plants as endangered, while other conservationists insist that the actual proportion is higher. In September 2001, the United Kingdom and the Overseas Territories adopted a set of environment charters setting out for the first time the mutual responsibilities of both regarding the environment.

VI. Dependencies of St. Helena

A. Ascension

1. General

53. Ascension was discovered by the Portuguese in 1501 and "found" again on Ascension Day in 1503 by Alphonse d'Albuquerque, who named the uninhabited island. Ascension covers an area of 90 square kilometres and is of volcanic origin.

In 1815, when Napoleon was a prisoner on St. Helena, a small British naval garrison was stationed on Ascension. The island remained under Admiralty supervision until 1922, when it was made a dependency of St. Helena. From then until 1964 the island was managed by the Eastern Telegraph Company (renamed Cable and Wireless in 1934). In 1964, in view of the plans to establish British Broadcasting Corporation (BBC) and Composite Signal Organization stations, an Administrator was appointed. During the Second World War, the United States Government built the Wideawake airstrip on the island. In 1957, a United States Air Force presence was re-established, and the airstrip and ancillary facilities enlarged. It is now the south-east tracking station for the United States Air Force Eastern Test Proving Ground. In 1982, it became the intermediate stop for Royal Air Force flights to and from the Falkland Islands (Malvinas). British and United States officials signed the Wideawake Agreement in 2003, which opened up the airstrip to civilian charter traffic.

2. Constitutional and political status

54. Executive authority for the Territory is exercised by the Governor of St. Helena. A resident Administrator is responsible to the Governor. As there have never been any indigenous inhabitants, the population (some 1,100 people) is made up of the employees of companies established on the island and their families. Until 2001, all administrative and public services were provided by Ascension Island Services, a joint venture partnership between the BBC World Service and Cable and Wireless, directed by a London Board of "Users". Owing to changed geopolitical priorities and rising salaries, the London Board decided in 1999 to disband the joint venture by 31 March 2001. As at that date, responsibility for services was undertaken by a new, transitional Ascension Island Government, consisting of the Governor of St. Helena and the Administrator of Ascension. Since then, the islanders have been engaged in deciding how to broaden their political and legislative status.

55. Throughout 2001 and 2002, there was considerable discussion among the inhabitants of Ascension about the future shape of their government. Following lengthy public discussions and controversial exchanges with the administering Power on the modalities of democratic government that Ascension Island could adopt, a referendum was held on 23 August 2002, in which the inhabitants were asked to choose between two models: either a local island council or a local island council with certain services in areas such as economic development, health and education, managed by an inter-island council that would include members from St. Helena. Ninety-five per cent of the voters in the referendum favoured the first option, namely an island council having financial and managerial responsibility for the services provided to the island.

56. Still to be developed, however, is another governmental body, a joint consultative forum, which would harmonize the relationship between St. Helena and Ascension on matters of common interest. In this respect, the independent constitutional adviser, Alison Quentin-Baxter, who visited Ascension in September 2002, recommended that the people of Ascension and St. Helena take their inspiration from similar cooperative arrangements among small independent States in the Eastern Caribbean, among small Pacific island States and between Australia and New Zealand.[36]

57. As with the existing Constitution of St. Helena, the proposed constitution would only apply in part to Ascension and Tristan da Cunha. As well as containing provisions that apply only to St. Helena and some which apply only partly to Ascension and Tristan da Cunha, the proposed constitution also contains provisions designed especially for the dependencies, such as provisions relating to the island councils. The proposed constitution also offers an opportunity to redefine the relationship between St. Helena, Ascension and Tristan da Cunha.[37]

3. Economic and social conditions

58. In December 2004, the Works Department of the island government announced the successful completion of construction of infrasound sites on the island. The Comprehensive Nuclear-Test-Ban Treaty Organization funded the infrasound project for which an additional workforce was recruited from St. Helena. Each site contains numerous underground sensor devices that can detect sound waves as they travel through the earth. The sites can detect when a nuclear explosion occurs and can also detect volcanoes, satellite crashes, storms and earthquakes.[38]

B. Tristan da Cunha

1. General

59. The dependency of Tristan da Cunha[39] is composed of four islands: the main island, Tristan da Cunha; Gough; Inaccessible; and Nightingale. Tristan da Cunha, a round volcanic island with an area of 98 square kilometres, is the most remote inhabited island in the world. Its closest neighbours are St. Helena, 2,334 kilometres to the north, and Cape Town, 2,778 kilometres to the east. Its population was evacuated to the United Kingdom when the volcano last erupted in 1961, but they returned in 1963. The only settlement on the island is the capital, Edinburgh of the Seven Seas.

60. According to the Administrator, as at December 2004, the population consisted of 275 people divided into approximately 100 households. A team of South African meteorologists live on Gough. Inaccessible and Nightingale are uninhabited.

2. Constitutional and political status

61. Following the passage of the British Overseas Territory Bill in 2002, the people of Tristan da Cunha have full British citizenship and the right of abode in the United Kingdom.

62. Executive authority for Tristan da Cunha is exercised by the Governor of St. Helena. A resident Administrator is appointed by the Governor and is responsible to him. The Administrator is advised by an Island Council, led by the Chief Islander and comprising eight elected members (including at least one woman) and three appointed members. Elections are held every three years. All registered voters over 18 years of age are eligible to vote.

63. Tristan da Cunha has its own legislation, but St. Helena law applies to the extent that it is not inconsistent with local law, insofar as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary. There is one full-time police officer and three special constables. The Administrator is the Magistrate.

3. Economic and social conditions

64. No further developments in this area have been reported since the report on the issue contained in the 2003 working paper (see A/AC.109/2003/4). However, with regard to access to the island, there is no air service to Tristan da Cunha. Transport to and from the island has been provided in the past by the yearly call of the *RMS St. Helena*, an occasional passenger ship, two fishing concession vessels and the South African research vessel *SA Agulhas*. In January 2004, the Governor of St. Helena announced that, after careful consideration, the government had decided to stop visits to Tristan da Cunha by the *RMS St. Helena*. The Governor noted that the population of the island had not been relying on the ship to carry passengers and cargo to the island. The Governor stressed that the changed schedule would not affect either the relationship of the United Kingdom or St. Helena with Tristan da Cunha and that it would still be possible for people to visit Tristan da Cunha by travelling from Cape Town via alternative shipping means.[40] Owing to rough seas, the harbour is accessible only 60 to 70 days a year. A firm of consultants has carried out an assessment of improvements to the harbour that are considered vital to the island's future. The results of the study are currently under consideration.

65. In July 2004, the islands of Tristan da Cunha experienced six weeks of tremors, causing some of the islands' residents to recall the seismic activity of 1961, which caused a mass evacuation. A scientific assessment of the seismic activity concluded that although the tremors were volcanic in origin, a significant eruption was not imminent and there was no immediate threat to the population.[41]

VII. Future status of the Territory

A. Position of the administering Power

66. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, his Government welcomed the opportunity to update the Committee on developments since it had last met.

67. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their equivalents from the Territories and with the Ministers of the Government of the United Kingdom. The meeting in 2004 once again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, constitutional modernization issues, sustainable development, including good governance and environmental matters, and other issues relating to the international obligations of the United Kingdom.

68. The representative stated that over the past year Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands. The visits had enabled him to meet a range of people in the two

territories and to get a better, first-hand, knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own territories.

69. The United Kingdom welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

70. Conscious of the limited resources in a number of the Territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare, including a study on alternatives to custodial sentencing.

71. He recalled that, in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Environment Charters for the Overseas Territories, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects during the period from 2004 to 2005, three of which were multi-territory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

72. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help, and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands had also suffered quite extensive damage in part of the Territory a few weeks earlier.

73. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the decision of the European Union and Overseas Countries and Territories Overseas Association of November 2001.

74. The representative said that the United Kingdom continued its informal cooperation with the Special Committee. The most recent involvement had been when the United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the seminar held by the Special Committee in Papua New Guinea in May 2004. He stated that the most positive recent development was the proposal for a visit to Bermuda with a

view to considering movement towards the delisting of the island. He concluded by saying that the secretariat was in touch directly with Bermuda on preparations for such an eventuality.

B. Position of the Territory

75. In September 1999, the government of St. Helena published the St. Helena Strategic Review 2000-2010, in which it outlined its medium-term and long-term vision for St. Helena. During 2003, the territorial Government put forward proposals for constitutional reform, as well as strategic objectives to plan for the aid package to the island for the period from 2004 to 2007 and requested the public to respond to both (see paras. 12 through 23 above).

76. The Legislative Councillor of St. Helena, William Drabble, participated as an expert in the Caribbean regional seminar organized by the Special Committee, which was held in Anguilla in May 2003. He noted that St. Helena and Montserrat were the only two British Territories receiving grant-aid. In St. Helena's case, the reason was its isolation and the fact that it did not produce enough raw materials to cover its expenses. St. Helena had no aspirations towards independence, nor could it afford it. He said that St. Helena was very satisfied with its relationship with the United Kingdom. Like the other Territories, however, St. Helena would like to have more say in managing its own affairs (A/58/23 (Part I), annex, para. 28). The possibility for obtaining greater internal control is imminent with the consultative poll on the proposed constitution set for May 2005. If the proposed constitution is adopted, St. Helenians will obtain a significantly greater degree of control over their own affairs.

VIII. Consideration of the question by the United Nations

77. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B without a vote; section IX of resolution 59/134 B is specifically devoted to St. Helena.

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General on 1 February 2005 from the United Kingdom of Great Britain and Northern Ireland under article 73 *e* of the Charter of the United Nations and from published sources.

[2] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[3] *St. Helena Herald*, 25 July 2003.

[4] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[5] *St. Helena Herald*, 11 October 2002.

[6] Ibid., 8 April 2004.

[7] Ibid., 11 June 2004.

[8] *The Islander*, 3 March 2005.

[9] Ibid., 12 August 2004.

[10] *St. Helena Herald*, 3 December 2004.

[11] Ibid., 15 October 2004.

[12] Ibid., 19 December 2003.

[13] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[14] *St. Helena Herald*, 30 July 2004.

[15] www.sainthelena.gov.sh.

[16] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[17] www.sainthelena.gov.sh.

[18] *St. Helena Herald*, 4 June 2004.

[19] Ibid., 18 October 2002.

[20] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[21] www.sainthelena.gov.sh/lifestyle/News-statementcpa.html.

[22] *St. Helena Online*, 18 March 2004, www.sthelenaonline.com.

[23] *St. Helena Herald*, 14 May 2004.

[24] Ibid., 13 August 2004.

[25] Ibid., 27 February 2004.

[26] http://europa-eu-un.org.

[27] *St. Helena Herald*, 30 July 2004.

[28] www.sainthelena.gov.sh.

[29] United Kingdom Overseas Territories Department, Department for International Development, Press release, 14 March 2005.

[30] *St. Helena Herald*, 30 July 2004.

[31] Ibid., 25 February 2005.

[32] Ibid., 18 February 2005.

[33] Ibid., 4 March 2005.

[34] www.sainthelena.gov.sh, accessed 27 February 2004.

[35] St. Helena Strategic Review 2000-2010, St. Helena Government, September 1999.

[36] Foreign and Commonwealth Office, Press release, 12 September 2002.

[37] *St. Helena Herald*, 14 December 2004.

[38] South Atlantic Remote Territories Media Association, 30 December 2004.

[39] Information derived from "Tristan da Cunha" (1998), by Brian Baldwin, Administrator of Tristan da Cunha.

[40] www.sainthelena.gov.

[41] South Atlantic Remote Territories Media Association, 25 October 2004.

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American Samoa

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	Background information	1–3	2
II.	Constitutional, legal and political issues	4–14	2
III.	Budget	15–18	5
IV.	Economy	19–36	6
	A. General	19–23	6
	B. Agriculture and fisheries	24–25	7
	C. Tourism	26–28	7
	D. Transport and communications	29–35	8
	E. Water, sanitation system and utilities	36	9
V.	Social conditions	37–46	9
	A. Labour	37–41	9
	B. Education	42–45	10
	C. Public health	46	10
VI.	Environment	47–49	11
VII.	Relations with international organizations and entities	50–52	11
VIII.	Future status of the Territory	53–57	12
	A. Position of the territorial Government	53	12
	B. Position of the administering Power	54–56	12
	C. Consideration by the United Nations	57	13

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I. Background information

1. American Samoa[1] is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands (Tutuila, Aunuu, Ofu, Olosega, Tau, Swains and Rose) and several lesser islands belonging to the Samoan group. The total land area is 197 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, where Pago Pago, the capital, is located, is the largest island; it constitutes 70 per cent of the total land area and is home to 95 per cent of the population.[2]

2. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States of America led to a period of instability. Deeds of cession of these islands to the United States were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to this Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. In 1951, an executive order transferred authority over the Territory to the Department of the Interior.

3. According to the Central Intelligence Agency estimates for July 2004, the population of American Samoa was 57,902, of which 51.2 per cent was male and 48.8 per cent was female. From 1990 to 2000, the population increased by 22.5 per cent. The annual population growth rate was 0.04 per cent. Ethnically, the population breaks down into 89 per cent Samoan/Polynesian, 2 per cent Caucasian, 4 per cent Tongan and 5 per cent others. Of the native population, 56.7 per cent were born in American Samoa, 6.3 per cent were born in the United States and 36.1 per cent were foreign born. Some 90.6 per cent of the population 5 years of age and older speaks Samoan, which is closely related to Hawaiian and other Polynesian languages, and English; and 2.9 per cent speaks English only. The literacy rate is 97 per cent. The median age is 22.4 years. Life expectancy is 75.62 years, with male life expectancy at 72.05 years and female life expectancy at 79.41 years. The annual birth rate is 24.46 births per 1,000 population and the annual death rate is 3.39 deaths per 1,000 population. The total fertility rate is 3.41 children born per woman. The annual net migration rate is -20.71. Half of the population is Christian Congregationalist (50 per cent), followed by Roman Catholic (20 per cent) and Protestant and others (30 per cent).[3]

II. Constitutional, legal and political issues

4. American Samoa is a Non-Self-Governing Territory under the administration of the United States of America. The Constitution adopted in 1960 was revised in 1967 and was subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an act of the United States Congress. In 1978, the people of American Samoa for the first time elected their own Governor. Since

1981, American Samoa has also elected, by direct vote, a non-voting delegate to the United States House of Representatives, who can, however, vote in committees. The most recent election was held on 4 November 2004.

5. Togiola T. A. Tulafano, who had been sworn into office in April 2003 following the sudden death of the previous Governor, was re-elected as Governor of American Samoa on 2 November 2004.

6. As American Samoa is an unincorporated and unorganized Territory of the United States, not all provisions of the United States Constitution apply. Residents of American Samoa are not United States citizens. They cannot vote in the United States general election but are permitted to participate in presidential primaries and caucuses. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. American Samoa has its own immigration laws, and entry into American Samoa by foreigners is not the same as entry into the United States (in contrast with Guam, where United States immigration laws apply).[4] With respect to citizenship, according to a resolution passed in 2002 by the House of Representatives of American Samoa, children born in the Territory to foreign parents become citizens of either the mother's or the father's country of origin, not United States nationals.[5]

7. In February 2003, the new Immigration Law of American Samoa came into force, changing eligibility requirements for permanent resident status in American Samoa in certain categories, and giving the Attorney General, instead of the government-appointed Board, full authority over granting eligibility. This change allows many individuals who reside in the Territory for a long period of time to acquire permanent resident status.[6]

8. The Constitution provides for separate executive and legislative branches and an independent judiciary. All American Samoans over 18 years of age are eligible to vote. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the Fono. The Fono is a bicameral legislature, which comprises an 18-member Senate whose members are chosen by 14 traditional tribal councils, and a 21-member House of Representatives, 20 of whom are elected by popular vote and one appointed as a non-voting delegate from Swains Island. Only matais (or chiefs) can become senators. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided its laws are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

9. Of the total 11,502 votes counted in the November 2004 congressional race, the incumbent Eni F. H. Faleomavaega received 6,040 votes (52.5 per cent). This is Mr. Faleomavaega's ninth two-year term in Congress. The American Samoa representative to the United States House of Representatives has no voting power.[7]

10. In 2003, Congressman Faleomavaega proposed a change of the federal legislation that would introduce a plurality vote instead of a majority vote in elections in the Territory. Under the current system, a candidate can be elected if he or she obtains a majority of more than 50 per cent of the votes. Should no candidate pass this threshold, a run-off election is to be held 14 days later. The supporters of the proposed change maintain that owing to the time constraints, a run-off election

would exclude overseas voters, such as those in military service and college students. Under the proposed plurality voting system, a candidate who receives the most votes would be considered elected. The opponents of the proposal maintain that under such a system, an elected Governor, Lieutenant-Governor and Congressman might represent a minority of voters. On 30 October 2004, the President of the United States signed into law a bill, unanimously supported by the United States House of Representatives and the Senate, to provide for election of the American Samoa Delegate in Congress by plurality instead of majority if the Legislature of American Samoa so decides. The bill authorizes the Legislature of American Samoa to establish a primary election for the office of Delegate and specifies that if such primary is established, the Delegate shall be elected by a majority of votes cast in any subsequent general election. Therefore, the bill includes both plurality and majority voting. If, for example, the Legislature of American Samoa establishes primary elections, the general election for the office of the Delegate will be by majority. If the Legislature fails to establish primary elections, the general election for the office of Delegate will be by plurality. Finally, this bill also restores the voting rights of the absentees in federal elections held in American Samoa.[8]

11. The discussion of the proposed federal legislation on elections in the Territory once again brought to light the question of whether federal laws are applicable to the Territory and whether decisions affecting the Territory can be taken at the federal level. Several territorial Senators who opposed the bill considered it essential to have input from the local leaders to any proposed legislation or even argued that the Territory should adopt its own voting laws. A letter to this effect was sent to the United States Congress. Another proposal was to work with local leaders to establish primaries and legalize the party system.[9]

12. The main business of the Government is the management and distribution of federal income and capital subsidies. The traditional communal system provides the basis for a strong Government whereby leaders are responsible not only for the preservation of the social order but also for the economic welfare of the extended family. The federal Government underwrites most of the cost of preserving this system. This affiliation allows the United States to have access to and use of the Territory for defence and other purposes. The number of employees in the Government reached almost 30.9 per cent of the entire employed civilian population 18 years of age and older.[10] The Government also manages power, water and sewer systems through the American Samoa Power Authority.

13. The judiciary system consists of the High Court, with the Chief Justice and the Associate Justices appointed by the Secretary of the Interior, and the local District and Village Courts, with the judges appointed by the Governor. The current Chief Justice is the first native Samoan to be appointed to the position. The High Court is separated into Appellate, Trial and Land and Titles divisions. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court. American Samoa laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

14. As was reported in previous years (A/AC.109/2002/12, para. 10; A/AC.109/2003/12, paras. 11-14), the question of applicability of the United States federal jurisdiction in the Territory has been widely discussed at the local and

federal levels in connection with the Daewoosa Samoa garment factory and medical insurance fraud cases. Discussions have also been held in connection with the changes in the federal Chil' Tax Credit law, which demanded that the tax return claims for dependent children be partially paid by the territorial Government. In his first State of the Territory address, the new Governor reported that of the 2003 fiscal year surplus of $2.7 million, the Government had to allocate $1.3 million to pay out the federal Child Tax Credit, as ordered by the High Court decision. He reminded the lawmakers that his predecessor had submitted legislation to the Fono that would delete child tax from local tax law, but that it had been rejected. He also announced that he was planning to resubmit similar legislation in 2004.[11]

III. Budget

15. The territorial budget consists mainly of federal grants-in-aid, the annual federal allocations through the Department of the Interior and locally generated revenue. In recent years, the Government experienced revolving financial difficulties (see A/AC.109/2002/12, para. 11; A/AC.109/2003/12, paras. 15-17), which were partially alleviated by the money received by the American Samoa Government as part of the Federal Tobacco Industry class-action lawsuit settlement, as well as through the efforts to streamline the work of the government offices.

16. According to the Governor of American Samoa, the Government was in the black again for the second consecutive year, with a surplus for 2004 that totalled $4 million. Moreover, according to the Governor, measures undertaken during the past eight years by his predecessor and continued by him to improve the Government's financial status through fiscal reform had paid off. The positive results had been achieved mainly by joint efforts of both the legislative and executive branches of the Government. According to an official press release of the Government of American Samoa, budget spending showed an excellent response from government departments on a directive to cut and tighten spending. The Treasury Office underwent drastic improvements in revenue collections, especially at the Customs Office and Tax Division. The increase in revenue was attributed to the collection of corporate and individual taxes, indirect costs and fees. Unaudited figures for fiscal year 2004 indicated in the fiscal year 2005 budget that the Government estimated that it had collected $58.5 million in local revenues in fiscal year 2004 and predicted that $64 million would be collected in fiscal year 2005.[12]

17. The annual budget of the Government of American Samoa for fiscal year 2005 that started on 1 October 2004, is $268.2 million. Of this amount, $64 million came from local revenues, with taxes providing $48 million, $9.7 million came from capital improvement projects, $13.9 million came from grants by the Department of the Interior, $87.5 million came from special federal grants and $93 million came from enterprise funds.[13] The budget is 15.4 per cent higher than that for fiscal year 2004.[14] According to the Governor, the budget figures reflect the continuation of the fiscal policy instituted by his Administration, which aims to restore fiscal integrity and limit spending to identified and budgeted revenues.[15]

18. On 16 October 2004, the President of the United States signed into law a bill approved by unanimous consent of the United States House of Representatives and Senate, which amends the United States code to provide the Government of American Samoa with the authority to issue bonds exempt from state and federal

taxation. This bill makes American Samoa bonds more attractive to investors and will save the Government of American Samoa interest costs on municipal bonds it may issue.[16]

IV. Economy

A. General

19. Economic activity in general is strongly linked to the United States. About 93 per cent of American Samoa's economy is based on United States federal expenditures and the canning industry, while the remaining 7 per cent stems from a small tourism industry and a few businesses that sell exclusively to the local market. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation. The largest trading partner of American Samoa is the United States, followed by New Zealand, Australia and Fiji. Imports are mainly food and petroleum products, machine parts, building materials, textiles and clothing. Canned tuna accounts for 97 per cent of exports. Ninety per cent of goods and products are imported.[17]

20. Tuna fishing and tuna processing plants are the backbone of the private sector, with canned tuna as the primary export, meeting 20 per cent of the United States market. This sector employs a third of the people. The Government employs another third. Attempts by the Government to develop a larger and broader economy are constrained by American Samoa's remote location, limited transportation and devastating hurricanes, as well as competition from neighbouring islands with lower wage levels and from larger, more efficient businesses in the United States.

21. According to the Governor, the Territory's economy in 2004 was healthy, with exports exceeding imports, preventing a trade deficit, thanks mainly to the tuna industry. Imports totalled $324.7 million versus exports of $495.5 million, creating a surplus of $134.8 million. He also noted that 394 new businesses and 800 new jobs were added to the local economy. At the same time, the cost of living continued to climb, increasing to 6 per cent in 2004 from 2.2 per cent in 2003. The increase was mainly attributed to factors outside the Territory and beyond local control, such as the heavy dependency on imported goods, the rise of oil prices and the continuous demand for materials and supplies needed for home repairs and improvements.[18]

22. In order to support a healthy financial state, according to the Governor, it is necessary to continue efforts at economic diversification with steps towards e-commerce, the processing industry, import substitution and export earning initiatives, ecotourism and air and surface transportation improvement. The Governor approved two courses in e-commerce to be introduced in the American Samoa Community College.[19]

23. In order to stimulate economic development, the United States Department of the Interior organized a conference on "Business Opportunities in the Islands" on 23 and 24 September 2004. More than 900 people participated in the conference, including Heads of State, Governors, business executives and private sector island officials, leading to a number of investment and trade initiatives.[20] Addressing the summit, the United States Secretary of the Interior referred to American Samoa as the only United States Territory in the South Pacific and highlighted some of the

competitive advantages of American Samoa, including duty-free access to the United States, an English-speaking workforce of over 17,000 people, locally controlled immigration and well-developed infrastructure (satellite telecom and Internet capabilities and established industrial parks). The Secretary of the Interior also drew attention to selected business opportunities in American Samoa, such as export-oriented manufacturing (like the tuna-processing industry) and professional services (management contracts, workforce-management training and technology consulting services), tourism (diversified services, such as ecotourism and conference tourism), tax exemption incentives and international banking services.[21] Currently, more Samoans live abroad than in American Samoa. An estimated 70,000 Samoans live in the United States, with 20,000 of them in Hawaii. This large number of overseas Samoans accounts for the large amount of remittances sent home, which contributes to American Samoa's economy.[22]

B. Agriculture and fisheries

24. Agriculture, hunting, forestry and fishing employ less than 3 per cent of the population and provide little surplus for export. The most important crops include taro, coconuts, bananas, oranges, papayas, breadfruit and yams. According to the Department of Agriculture, at present, the Territory covers 95 per cent of its food needs through imports.

25. The fishing industry constitutes 90 per cent of the Territory's economy and employs one third of its workforce. American Samoa's tuna processing industry is the fourth largest in the world. The industry is an important source of government revenue, with corporate taxes from the StarKist facility alone totalling $3 million in 2003. As was reported previously (A/AC.109/2003/12, para. 24), the Government had expressed concern about the Andean Trade Preference Act and the Association of Southeast Asian Nations duty-free treatment, which could have a strong negative effect on the tuna industry of American Samoa. During the reporting period, the Government and the American Samoa delegate to the House of Representatives continued to lobby for the protection of the Territory's tuna industry, particularly through the extension of the Internal Revenue Service 936 federal tax benefits. On 8 February 2005, Congressman Faleomavaega introduced legislation to extend IRS 936 tax credit to American Samoa's tuna industry for 10 additional years in order to oppose a duty-free treatment for canned and pouched tuna from Latin America, in the framework of the Andean Free Trade Agreement negotiations. Since 80 per cent of the American Samoa private-sector economy is dependent either directly or indirectly on two United States tuna canneries (StarKist and Chicken of the Sea), the fear in the Territory is that the Andean Free Trade Agreement will devastate the local economy. Under the new agreement, the Congress will have no say in the negotiations and will not be able to amend any offers put forward by the President of the United States.[23]

C. Tourism

26. Despite the Government's efforts to encourage tourism, the industry remains small. American Samoa has little tourist infrastructure, with only one hotel (80 per cent government-owned), and a total of 260 hotel/motel rooms in Tutuila and Mau'a and a number of small hotels.

27. The official website of the Office of Tourism notes that American Samoa is in the initial stages of tourism development. The main attractions are the sand, sun and coral seas. There is also hiking and fishing.

28. Around Christmastime, international cruise ships stop in the Territory. During the 2003/2004 New Year season, five such stops, including the Queen Elizabeth, visited the Territory. The ships were met by the usual local activities of entertainment by dance groups and the local handicraft market.[24] There is potential, however, for ecotourism, with the establishment of the National Park of American Samoa in 1993. The 8,000-acre park, which spreads over three islands, protects the only mixed-species paleotropical rainforest in the United States and includes 1,000 acres of the finest coral reef in the Territory.[25]

D. Transport and communications

29. There are approximately 150 kilometres of paved roads and 200 kilometres of secondary roads in American Samoa. The highway system is generally in poor shape owing to the effect of hurricanes, the age of the roads and inadequate maintenance.

30. Pago Pago harbour is an all-weather deep-draught harbour, one of the best natural deepwater harbours in the South Pacific Ocean and of strategic importance in the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-[illegible] marine railway.[26]

31. There are four airports in the Territory, situated on the islands of Tutuila, Ofu, Olosega and Ta'u. Pago Pago International Airport is owned and operated by the territorial Government. It is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Hawaiian Air provides direct air service from Pago Pago to Honolulu. Polynesian Airlines, Air New Zealand and Air Pacific provide regional air service to New Zealand, Australia, Fiji, Vanuatu, Tonga, New Caledonia, Tahiti and the Cook Islands. The national airline, Samoa Air, flies to Tonga and other destinations and is available for charter. Domestically, Samoa Air flies regularly to Ofu, Olosega and Ta'u Islands and makes several flights a day to Samoa. American Samoans travel very frequently by air.

32. The United States Government provided $2 million to fund the construction of a temporary airport tower at the Pago Pago International Airport on 8 December 2004, as part of the Omnibus Appropriations Bill signed by the House of Representatives and the Senate on 20 November 2004.[27]

33. In 2003, the airline industry received further additions with Aloha Airlines entering the Honolulu-Pago Pago market and four airlines — including two from Honolulu — interested in operating domestic flights. In January 2005, Aloha Airlines discontinued its flights to Pago Pago, after filing for chapter 11 at the United States Bankruptcy Court in Honolulu earlier.[28] The Government of American Samoa, led by Deputy Prime Minister Misa Telefoni, is currently engaged in talks with the Australian low-cost carrier Virgin Blue, which is scheduled to launch a new airline, Polynesian Blue, a low-cost joint-venture carrier. This move is part of the Government's plans to bring in more tourists by providing cheaper airfares and lessen the national carrier's dependence on public funds.[29]

34. Addressing the Interagency Group during the Insular Affairs Summit in September 2003, the Governor of American Samoa referred to the hardships imposed upon the Territory by air cabotage rules, which restricted the ability of foreign airlines to serve the Territory. He asked for a limited exemption to the cabotage rule for American Samoa because this isolated Territory was heavily dependent on air travel.[30]

35. American Samoa, through the overseas communications satellite corporate link, has direct telephone dialling to most countries. There is a choice of mobile telephone service providers. Internet service to the World Wide Web is provided by the territorial Government's Office of Communications. The Territory has four radio stations and a government-owned television station, two privately owned newspapers, a government-owned TeleCommunications Authority and the privately owned Blue Sky Communications.[31]

E. Water, sanitation system and utilities

36. The American Samoa Power Authority (ASPA), which is government-owned, provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. ASPA provides safe drinking water to 90 per cent of the Territory from 57 wells, with the remaining part being serviced by outer-village systems. It is responsible for restoring, maintaining and protecting the water supply during natural and man-made breakdowns. The daily capacity of the water system is 8 million gallons per day from high-quality groundwater and surface sources, half of which is consumed by the food processing industry. According to the Government, the drought that struck the Territory two years ago prompted measures to improve the infrastructure and to better maintain the existing facilities. Efforts at improving infrastructure and training additional personnel are being continued.[32]

V. Social conditions

A. Labour

37. The Territory is characterized by low per capita income and a significant unemployment rate. The total labour force of American Samoa consists of 17,664 workers. About one third of the labour force consists of aliens, mostly from Samoa. The largest employer, with approximately 4,282 employees, is the Government of American Samoa. The Territory's per capita income is $4,357 and the unemployment rate is 12 per cent.

38. American Samoa is one of the two United States Territories in which employers are allowed to pay workers less than the mainland minimum wage to ensure compatibility with the prevailing cost of living. Wages in the Territory are set not by federal law but by recommendation of a special United States Department of Labor committee that reviews economic conditions every two years and establishes minimum wages by industry under the Fair Labor Standards Act. As of October 2002, the wages are as follows: government employees at $2.77; fisheries at $3.26; and shipping and transportation at $4.09.

39. As was reported in the previous working papers (A/AC.109/2002/12, para. 30; A/AC.109/2003/12, paras. 38-40), the Government sponsored an attempt to launch a garment manufacturing sector involving foreign workers. The mistreatment of the workers by the factory management led to a class-action suit and the case against the owner of Daewoosa garment factory.

40. In March 2003, the Honolulu federal jury issued its verdict on the Daewoosa case. The defendants were found guilty and were expected to be sentenced in July 2003.[33] However, by the end of 2003, the three-year-old Daewoosa case had not yet seen its conclusion. Two people in the case received prison sentences of, respectively, four years and three months and five years and 10 months, and two former managers were acquitted. At the same time, the sentencing of the former owner of the factory who was found guilty of 11 counts of involuntary servitude, as well as conspiracy, extortion and money-laundering, was further delayed until the spring of 2004. The defence still maintains that federal law provides for the High Court of American Samoa to hear cases involving crimes within the Territory and that the Government had no right to bring the defendant to Hawaii.

41. As was reported previously, the applicability of federal jurisdiction to this case was questioned by the defence and some observers from the outset of the case (see para. 14 above and A/AC.109/2003/12, paras. 38-40).[34]

B. Education

42. Education is compulsory from 6 to 18 years of age. The educational system in American Samoa is broadly based on the United States pattern. There are 30 public primary, 6 private and 160 village schools.

43. As was reported previously (A/AC.109/2003/12, para. 42), American Samoa had the lowest average score in the National Assessment of Educational Progress administered nationwide by the federal Department of Education. The "high risk" status issued by the Department has been addressed with policies to improve the collaboration between it and the local Department of Education. The results of this collaboration are the improvement of the local Department of Education and the release of federal educational funds without penalizing the Territory.[35]

44. American Samoa Community College offers two-year degree courses in arts and sciences and programmes offering certificates of proficiency in vocational and clerical skills, business and nursing. San Diego State University offers bachelor's and master's degree programmes in Tutuila, which enable the student to obtain an advanced college degree without moving off-island.

45. In November 2004, the United States House of Representatives and Senate approved $640,000 for the American Samoa Community College to improve its trades, industries and technology programme in the Labor, Health and Education Appropriations Act.[36]

C. Public health

46. Most social programmes in the Territory, including those related to public health, are funded by the federal Government. The main hospital in the Territory, the Lyndon Baines Johnson Tropical Medical Center, has 140 beds and a staff of 25

physicians. Medical, dental and pharmaceutical services are available 24 hours a day. For serious cases, off-island treatment, including hospitalization in Guam, Hawaii or the United States mainland, is provided.[37]

VI. Environment

47. According to the World Wildlife Fund, American Samoa contains 1 of the 10 most vulnerable forests in the world and only 0.2 per cent of the forest is protected. The Forest Service of the United States Department of Agriculture, in partnership with the territorial Government, has been implementing a number of programmes aimed at promoting the health and productivity of the Territory's forest lands. These programmes are focused on public education and tree planting, agroforestry, water resources, coastal stabilization, community beautification, late successional rainforest tree species, wood products, wildlife and conservation practices. In 2002, the Government of American Samoa bought 2,872 acres of forest from Salelologa village, an area rich in biodiversity, and in August 2004, the Minister for Natural Resources and Environment announced that it would become a national park.[38] To help mitigate the effects of human use, the American Samoa Coastal Management Program was established for the coastal zone, which includes all land (126 miles of coast) and sea within 3 miles of the shoreline.

48. In September 2004, American Samoa received over $3 million in additional funding from the federal Government to assist with Environmental Protection Agency programmes in American Samoa that will be used for the Tufuna Plains Sewer Project, a construction of wastewater collection and conveyance system.[39]

49. Hurricanes and tropical storms pose a great threat to American Samoa. The typhoon season in American Samoa dates from December to March. Normally the islands are not on the storm track. However, in the last 10 years, the hurricane El Niño has hit American Samoa during the period of its activity.[40] Federal disaster funds were made available for American Samoa after the island of Tutuila was struck, in January 2004, by heavy rains and heavy winds and surf generated by tropical cyclone Heta. The Federal Emergency Management Agency provided $11.5 million in temporary disaster housing grants to people whose homes had been damaged. The agency also provided more than $13.8 million for other needs directly related to cyclone Heta. The United States Small Business Administration approved approximately $5.6 million in low-interest disaster loans to homeowners, renters and business owners to cover costs for the long-term repair and rebuilding. An amount of $1.2 million under the Federal Emergency Management Agency's Public Assistance Program was approved for the Government of American Samoa to cover 90 per cent of the costs incurred by the territorial Government owing to Heta.[41]

VII. Relations with international organizations and entities

50. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors'

Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

51. American Samoa belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies. The Territory has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988.

52. In October 2002, American Samoa joined the South Pacific Applied Geoscience Commission. The Territory is reportedly seeking assistance from the Commission in the development of its water resources and advice on reducing the risk of natural disaster.[42]

VIII. Future status of the Territory

A. Position of the territorial Government

53. In a statement made in 1993, the Lieutenant-Governor of American Samoa indicated that American Samoa preferred to remain a Territory of the United States (see A/AC.109/1159, paras. 25-31). This position remains unchanged. This position has been maintained by the officials of American Samoa over the years.

B. Position of the administering Power

54. In a statement made at the 72nd plenary meeting of the General Assembly on 9 December 2003 (see A/58/PV.72), a representative of the United States said that the United States could not support the draft resolution (A/58/L.21) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, because by adopting a narrow definition of decolonization, the draft resolution failed to take into account the complex reality of Non-Self-Governing Territories. For the United States, the very term "non-self-governing" seemed inappropriate for those who were able to establish their own Constitution, elect their own public officers, have representation in Washington, D.C., and choose their own economic path.

55. The United States was fully supportive when countries chose independence and was proud to welcome them as equal and sovereign partners. For Territories that did not choose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, including the rights to integration and free association. The United States expressed its view that the world encompassed a variety of peoples, places and political circumstances and that richness did not allow for just one path. It believed that a single standard of decolonization should not be applied to every Territory and called upon all Member States to respect the choices made by residents of Non-Self-Governing Territories.

56. In conclusion, he said that the United States looked forward to a significant dialogue with the Special Committee in 2004 and that it was the hope that all parties

would cooperate to achieve a reduction in the number of Non-Self-Governing Territories.

C. Consideration by the United Nations

57. On 10 December 2004, the General Assembly adopted without a vote resolutions 59/134 A and B, section I of resolution 59/134 B being devoted specifically to American Samoa.

Notes

[1] The information contained in the present working paper has been derived from information transmitted by the administering Power under Article 73 *e* of the Charter of the United Nations and from published and Internet sources.

[2] Federal Emergency Management Agency, www.fema.gov/regions/ix/amsamoa.

[3] www.cia.gov/cia/publications/factbook.

[4] Bank of Hawaii, 1997 economic report: American Samoa.

[5] BBC Monitoring Asia Pacific, 27 September 2002.

[6] *Samoa News*, 4 February 2003.

[7] Ibid., 3 November 2004.

[8] Office of American Samoa Congressman Faleomavaega, press release, 30 October 2004. www.house.gov/faleomavaega.

[9] *Samoa News*, 27 August, 3 September, 6, 7, 9 October 2003. www.house.gov/faleomavaega.

[10] United States Census Bureau (www.census.gov/census2000/americansamoa.html), 28 January 2002.

[11] *Samoa News*, 22 January 2004.

[12] Office of the Governor, State of the Territory at joint session of Fono, official press release, 10 January 2005.

[13] *Samoa News*, 29 September 2004.

[14] Ibid., 10 September 2004.

[15] Ibid., 1 October 2003, 22 January 2004.

[16] Office of American Samoa Congressman, press release, 18 October 2004, www.house.gov/faleomavaega.

[17] Office of the Governor, official press release, State of the Territory, 10 January 2005.

[18] Office of the Governor, State of the Territory at joint session of Fono, official press release, 10 January 2005.

[19] *Samoa News*, 20, 21, 23 January 2004.

[20] Office of Insular Affairs, 24 September 2004, press release, www.doi.gov/oia.

[21] Office of Insular Affairs, American Samoa Business Opportunities Report, September 2004, www.businessopportunitiesconference.com.

[22] Pacific Business Center Program. University of Hawaii. American Samoa. Economic Environment, 15 March 2005, www.hawaii.edu/pbcp/services/servicearea/asamoa.

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Montserrat

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	General	1–4	3
II.	Constitutional, political and legal issues	5–18	3
III.	Status of the Montsoufriere volcano	19–23	6
IV.	Economic conditions	24–53	8
	A. General	24–26	8
	B. Budget	27	8
	C. Banking and finance	28–31	8
	D. Tourism	32–35	9
	E. Construction and infrastructure	36–45	10
	F. Agriculture and fisheries	46–53	12
V.	Social conditions	54–60	13
	A. Education	54–58	13
	B. Health	59–60	13
VI.	United Kingdom development assistance	61–62	14
VII.	Relations with international organizations and entities	63–69	14

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05-30069 (E) 020505

VIII. Future status of the Territory 70–80 15
A. Position of the territorial Government 70 15
B. Position of the administering Power 71–80 16
IX. Consideration by the General Assembly 81 17

I. General

1. Montserrat[1] is situated in the Leeward Islands in the eastern Caribbean, 43 kilometres south-west of Antigua and 64 kilometres north-west of the French Overseas Department of Guadeloupe. The island covers an area of 103 square kilometres, all of which is volcanic and mountainous. Its coastline is rugged and there is no all-weather harbour.[2]

2. Montserrat was named after a Spanish monastery by Christopher Columbus on his second trip to the island in 1493. In 1632, the island became a British colony, and its first settlers came mainly from Ireland. Slaves, who worked the cotton, sugar and tobacco plantations, were unsuccessful in an uprising in 1768. Although Montserrat was occupied by France for brief periods, it returned definitively to British rule in 1783. Montserrat became a British Crown Colony in 1871.

3. In July 1995, the Montsoufriere volcano, dormant for more than 400 years, erupted and caused the evacuation of population from the southern part of the island to its northern "safe" areas. Montserrat's capital, Plymouth, was abandoned after the increase in volcanic activity in 1996. The temporary capital is now located in Brades and a new capital is being planned in Little Bay, which is situated on the north-east coast of the island.

4. The population of Montserrat was 10,581 in 1995. By 1998, it was reduced to 3,500. In 1999, the population was estimated to be 4,600, and in 2003 approximately 4,483. The preliminary figures for 2004 have shown an increase of 207, or 4.65 per cent growth, to 4,690.[3]

II. Constitutional, political and legal issues

5. Montserrat is a Non-Self-Governing Territory of the United Kingdom of Great Britain and Northern Ireland. The Montserrat Constitution Order came into force in 1990. It provides for a Governor appointed by the Queen; an Executive Council comprising the Governor as President, the Chief Minister, three ministers and two ex officio members (the Attorney General and the Financial Secretary); and a Legislative Council, comprising a Speaker, two ex officio members (the Attorney General and the Financial Secretary), seven elected members returned from single-member constituencies on the basis of universal adult suffrage and two nominated members. Elections are held every five years on the basis of universal adult suffrage. Since the eruption of the Montsoufriere volcano, the entire island has been considered to be one electoral constituency. Nine at-large members are elected in two rounds of voting. The new Assembly does not include any nominated members. The next election is due to be held in early 2006.

6. As was reported in last year's working paper (A/AC.109/2004/13, para. 6), the new electoral system has established a qualifying pre-poll residence period of 36 months, which caused some displeasure among the Montserratians living and working abroad.

7. Ministerial responsibilities cover all areas of government business, including finance. While the Governor retains responsibilities for external affairs, internal security, defence, the public service and offshore financial services, he or she is expected to act on the advice of the Ministers.

8. The current Governor of Montserrat, Deborah Barnes-Jones, took office in May 2004, and is the first female Governor of a British Territory. She is the successor to Anthony J. Longrigg, who retired from the British diplomatic service after almost three years of service as Governor of Montserrat.[4] The Chief Minister, John Osborne, took office in April 2001. The main political parties are the New People's Liberation Movement and the National Progressive Party.

9. As was reported in last year's working paper (A/AC.109/2004/13, para. 10), in 2002 a Constitutional Review Committee was appointed to review the Constitution. In March 2003, the Constitutional Review Commissioners released a report, which recommended, among other changes to the current Constitution, that the Chief Minister of the Territory be invited to examine short-listed candidates for the position of Governor and make a reasoned recommendation, thus participating in the selection process. The report recorded a minority view that the Chief Minister could not do that effectively since he did not know the candidates. Nevertheless, the report concluded that the proposed change from the imposition of the candidate by the United Kingdom to cooperative action in choosing a Governor would have symbolic significance. In addition, the report registered the opinion that a candidate for Governor should have stipulated qualities and capabilities, namely that such a person should have some understanding of Caribbean and Montserrat culture, as well as some skills in the area of development planning.[5]

10. According to information provided by the administering Power, during the discussion of the constitutional review process in the Territories and the role of Governors at the Overseas Territories Council meeting in December 2003, in response to the intention by the Foreign and Commonwealth Office to arrange talks with Governors and the Opposition in London on the proposed changes in the Constitutions of all Territories, the Chief Minister of Montserrat remarked that in Montserrat constitutional change was not a party political matter. He said that he had established a bipartisan committee under the chairmanship of the leader of the Opposition to consider Montserrat's constitutional report.

11. The report of the Constitutional Review Commission also suggested that Montserrat and the United Kingdom should develop some arrangement that would allow the Territory to trade in international markets without the approval of the United Kingdom. The dependent status of Montserrat should not impede its ability to engage in such trade, and provision to allow it to do so should be included in the Constitution.

12. In addition, the report stated that the dependent status of Montserrat should not prevent it from benefiting from certain international arrangements and conventions, as the Territory is part of the global community. For example, under the Kyoto Protocol on climate change (1997), industrialized countries which cannot meet established targets for reducing the greenhouse effect might buy emission credits or invest in energy conservation, using the Kyoto mechanism. While independent Caribbean countries, signatories to the Protocol, can sell their "extra" credits to the developed countries, Montserrat is excluded from that process. At the same time, the United Kingdom is expected to fund such emission credits from corporate taxes.[6] The full committee of the Legislative Council has examined the recommendations of the Constitution Review Committee and will forward the final recommendations to the Foreign and Commonwealth Office for consideration.[7]

13. The law of the Territory is English common law together with locally enacted legislation. It is administered by the Eastern Caribbean Supreme Court. The Royal Montserrat Police Force is funded by the technical cooperation programme.

14. During his visit to London in October 2003, the Chief Minister of the Territory asked the United Kingdom for permission to join the other members of the Caribbean Community (CARICOM) in establishing a regional Appellate Court and a Single Market and Economy (see also para. 64 below). Currently, Montserrat is the only member of that regional organization that has not signed the relevant protocols. CARICOM plans to establish a single market by 2008, when member countries are to lift trade barriers under the Free Trade Area of the Americas. The Caribbean Court of Justice is considered to be essential for resolving regional trade disputes. It was to be inaugurated on 16 April 2005 and will replace the London-based Privy Council as the highest appeals court for many English-speaking Caribbean countries.[8] According to the Governor of the Territory, the United Kingdom has no intention of holding the integration process in the Caribbean. This discussion takes place against the background of the British Government urging Montserrat to become more self-sufficient as the United Kingdom reduces its yearly subsidies to the Territory.[9]

15. The Government of Montserrat, recognizing the need to fulfil responsibilities in meeting the requirements of the various United Nations human rights conventions extended to it by the British Government, has established a human rights reporting committee, which was authorized by the Executive Council in early 2004. The functions of the committee include preparing the reports required under each convention in a timely fashion and making them available for public consultation, monitoring the implementation of the various conventions, advising the Government of any shortcomings and making suggestions for remedying such shortcomings. The committee is supposed to liaise with Government departments and non-governmental organizations to determine the level of compliance with the requirements of the various conventions extended to Montserrat. The 2004 reports on the themes "C87 Freedom of Association and Protection of the Right to Organize Convention, 1948" and "C98 Right to Organize and Collective Bargaining Convention, 1949" have been completed and submitted to the International Labour Organization. The committee has taken steps to facilitate the creation of a human rights commission in Montserrat and anticipates that representatives of the National Youth Council and Chamber of Commerce and Industry will be the nucleus for the establishment of this independent body. Two members of the committee attended the sixth annual human rights conference held in the United Kingdom in October 2004.[10]

16. The Government of Montserrat has announced new eligibility criteria for permits of permanent residence to non-nationals. The new criteria are contained in Montserrat Statutory Rules and Orders No. 17 of 2004, also entitled "Immigration Regulation 2004", made by the Governor-in-Council under section 39 of the Immigration Act. Under the new criteria, applicants for permits of permanent residence must have resided on Montserrat for not less than eight years, must have been gainfully employed and must have maintained a savings account with an average monthly balance of at least EC$ 5,000 during the six months immediately proceeding the date of application. In addition, applicants need to produce a character certificate from the Police Department of the country or countries where they resided for a period of 12 years prior to the date of the application. They may

not have been absent from the island in excess of 90 days during any one year of the eight years immediately preceding their application for permanent residence. The new eligibility criteria apply to any non-national resident of Montserrat on or subsequent to 1 January 2003. The Government of Montserrat has announced new fees for the issuance of permanent residence permits to non-nationals, which are contained in Montserrat Statutory Rules and Orders No. 18 of 2004.[11]

17. With effect from 5 July 2004, the Customs Department introduced the CARICOM Common External Tariff and changes to other taxes on imports. The changes include a new tariff for customs import duties based on the current 2002 CARICOM Tariff structure, a new schedule of rates for customs import duties based on the CARICOM Common External Tariff but including derogations agreed with CARICOM. Changes also comprise a revised schedule of a consumption tax, exceptionally, a consumption tax of 60 per cent for alcoholic beverages and a reduction in the rate of the customs service tax from 8 per cent to 5 per cent. According to the Comptroller of Customs, Rudolph Dyett, the changes are not intended to raise additional revenue but to enable Montserrat to comply with its obligations as a member of CARICOM, and rates have been selected to ensure minimum impact on the rate of inflation.[12]

18. With effect from 1 January 2005, personal income tax rates have been reduced in order to balance the erosion of income as a result of high fuel prices, rents and costs related to the construction industry. The Government of Montserrat has also decided to increase the fees relating to landholding licences and those relating to undeveloped properties owned by foreign nationals, from July 2005 and January 2006, respectively.[13]

III. Status of the Montsoufriere volcano

19. The Montserrat Volcano Observatory was established after the eruption of the Montsoufriere volcano in 1995 and became a statutory body of the Government of Montserrat in 1999. Funded mainly through the United Kingdom Department for International Development (DFID), its role is to advise civilian authorities on the volcanic activity and associated hazards. Contrary to the initial prognosis, the volcanic eruptions were repeated in 2000, 2002 and 2003.

20. On 12 July 2003, the Soufriere Hills volcano erupted again. A series of volcanic explosions took place on 12 and 13 July, which sent ash up to 40,000 feet in the air. Part of the volcano's dome collapsed and the roads were covered with two inches of mud. The dome collapse also caused major ash fallout of up to 6 inches. The eruption forced the closure of airports in neighbouring countries. Large airlines, including Continental Airlines, American Airlines, Air France and US Airways, had to cancel flights into nearby St. Martin. Several flights were cancelled and had to be diverted to the British Virgin Islands, the United States Virgin Islands and Puerto Rico.[14]

21. Since a small collapse and explosion on 3 March 2004 and the elevated ash production and seismic tremor in the two months following, the volcano has been quiet with few surface expressions of activity. According to the Scientific Advisory Committee on Montserrat Volcanic Activity, the eruption has not stopped and the volcano is still capable of producing explosions or extruding more lava. However, the overall level of risk faced by the people of Montserrat from the volcano is

greatly reduced from that of early 2003. People crossing the Belham Valley are at risk from mudflows. The chance that in a year someone will be caught in a mudflow during a crossing is estimated at 1 per cent. A bridge will reduce that risk significantly, but will need to be designed and engineered to allow it to be raised, as it is anticipated that the riverbed at the bridge will rise up to one metre per year due to sedimentation. The construction of an access bridge to the former daytime entry zone, with a budget of $3 million, will enable all-weather access to the former daytime entry zone and signal the move to reoccupy certain areas south of Belham.[15]

22. Starting on 1 May 2004 the authorities agreed to allow full-time, 24-hour occupancy of the areas previously included in the daytime entry zone, including Cork Hill, Weekes, Delvins, Richmond Hill and Foxes Bay. That decision was made at a meeting of the Volcano Executive Group and after consideration of the Scientific Advisory Committee's report on Montserrat's volcanic activity, suggesting that a decade of intermittent violent activity is virtually over. The Government of Montserrat, however, is not recommending full-time occupancy of the areas previously included in the daytime entry zone owing to lack of utilities, the state of the road network and elevated ash levels. The exclusion zone, which covers roughly the southern half of the island, remains off limits for members of the general public.[16]

23. Within the two years between the volcano eruptions (1995 and 1997) roughly two thirds of the population of Montserrat had to flee. Most went to other Caribbean islands or to the United Kingdom, and fewer than 300 went to the United States, most living with relatives in New York and Boston. The United States granted the Montserratians temporary protected status, renewed yearly. In June 2004, the Department of Homeland Security ordered the end of Montserratians' temporary protected status effective 27 February 2005. Homeland Security officials explained that "the volcanic activity causing the environmental disaster in Montserrat is not likely to cease in the foreseeable future. Therefore, it no longer constitutes a temporary disruption of living conditions that temporarily prevents Montserrat from adequately handling the return of its nationals".[17] They based their determination on scientific reports from Montserrat and the United Kingdom that said that "eruptions of the type that have occurred at Soufriere Hills generally last 20 years, but the volcano could continue to erupt sporadically for decades ... there is only a 3.2 per cent probability that the volcanic activity will stop within the next six months. There is a 50 per cent probability that the volcanic activity will last another 14 to 15 years, and a 5 per cent chance that the volcanic activity will continue for over 180 years".[18] After 27 February, the Montserratians began to accrue "illegal presence", a status that could bar them from future readmission to the United States for years. About a third of the Montserratians in the United States managed to gain legal status in other ways and a few chose to go to the United Kingdom.[19] The Chief Minister, John Osborne, said that the return of so many nationals could pose serious difficulties for the volcano-ravaged island, especially regarding the provision of housing and employment.[20]

IV. Economic conditions

A. General

24. Volcanic activity and hurricane damage have combined to seriously undermine Montserrat's economic development and have implications for its future planning. As efforts to rebuild the economy continue, economic activity centres on reconstruction, which is largely funded through DFID.

25. As was reported in last year's working paper (A/AC.109/2004/13, para. 24), the analytical study conducted by the University of the West Indies, entitled "The challenges of achieving development in a micro state: The case of Montserrat 1995-2001",[21] concluded that Montserrat's economy had continued to experience a debilitating shock to its development since 1995. The study identified as major challenges limited financial resources; external decision-making; population size; limited development prospects; lack of natural resources; and lack of key infrastructure.

26. In 2004, preliminary data indicated that Montserrat recorded its third successive year of economic growth. Preliminary estimates of GDP reveal a growth in GDP of 4.26 per cent in 2004, an improvement to the revised 1.2 per cent growth rate achieved in 2003. The increased economic activity was mainly influenced by increases in value added for the banking, insurance, transportation, real estate and housing, construction, hotel and restaurant and Government sectors.[22]

B. Budget

27. According to the information provided by the administering Power, total revenue reflects additional budgetary aid received from DFID to cover the ash-clearing programme and monies provided to cover the Government's social security arrears liability on behalf of civil servants.[23]

C. Banking and finance

28. As was reported in last year's working paper (A/AC.109/2004/13, para. 28), Montserrat has a small offshore financial centre. In March 2002, the Organization for Economic Cooperation and Development (OECD) announced that it had removed Montserrat from its list of tax havens, as the Territory had made a commitment to transparency and effective exchange of information on tax matters with OECD countries by the end of 2005.[24]

29. According to officials of the United States Department of State, in their 2005 International Narcotics Control Strategy Report, Territories administered by the United Kingdom remain vulnerable to money-laundering because of their significant offshore sector and tax-free jurisdictions. Montserrat was denoted as vulnerable to money-laundering because of a lack of regulatory resources and exchange controls for transactions less than $250,000. The report recommended that the Government of Montserrat criminalize self-laundering related to domestic drug trafficking and ensure adequate oversight and supervision of its offshore sector to deter criminal and terrorist organizations from abusing its financial services sector.[25]

30. A monetary survey carried out by the Eastern Caribbean Central Bank shows that there is a high level of liquidity within the banking system. Using the net foreign assets as an indicator of national savings, Montserrat's net foreign assets increased from $119 million in 2000 to $173 million in 2004. Most of those assets are held within the commercial banking system. Domestic credit, in particular business credit, has decreased from approximately $8 million in 2000 to $4.7 million in 2004. The private sector activity has been assisted by the fairly stable consumer credit of $22 million lent to households. A considerable amount of that, however, goes into financing imports rather than local production.[22]

31. The Government of Montserrat continues to provide assistance to the private sector through policy-based tax exemptions in agriculture, tourism, financial services, construction, mining and quarrying. Concessions are granted to international businesses wishing to set up in Montserrat, including offshore schools, the exploration and development of geothermal power, a German water bottling company, mining and quarrying, hotel development and dive operation. The Government of Montserrat will allocate land and factory space to facilitate the work of Montserrat Composites Ltd., a joint venture company that collects and processes the ash deposits on the island into a variety of products for export.[22]

D. Tourism

32. During the reporting period, the tourist industry of Montserrat continued to be affected by the unfavourable conditions created by the eruption of the Montsoufriere volcano and subsequent destruction of infrastructure and accommodations. The Government continued efforts to keep the industry alive and developed plans for its reconstruction and expansion.

33. The Government of Montserrat views tourism as the sector that will provide long-term economic regeneration for Montserrat, and therefore it has allocated $7 million over a three-year period to fund tourism-related projects. It will also benefit from a recurrent budget allocation of $1.2 million, a 20 per cent increase over the 2004 allocation.[26]

34. A number of projects will commence in 2005 as part of the National Tourism Strategy and Plan, including the establishment of a national museum, the establishment of interpretive centres at the Montserrat Volcano Observatory and the Montserrat National Trust, the development of walking trails, the beautification of communities, the erection of tourism signposting, the undertaking of a beach improvement feasibility study, entitled "Marina and Yachting Audit", and the conducting of a tourism-awareness programme. The Government will also assist the private sector in the establishment of a golf course in the Foxes Bay area. It is in the process of assigning the necessary land, while the private sector is taking forward the design of the course.[27]

35. The Government has embarked on a tourism-awareness programme to educate the public in Montserrat about tourism and what it means to the economy of the island and to its people. It has also launched a media project designed to promote Montserrat's positive image. This will involve mounting a photographic exhibition in the United Kingdom, film production on Montserrat and training of media personnel and photographers. The "Montserrat on the Move" programme of

activities will be held alongside the media project and will celebrate Montserrat's resilience through the years of volcanic activity.[27]

E. Construction and infrastructure

36. As was reported in last year's working paper (A/AC.109/2004/13, para. 33), following the eruption of the volcano and the destruction of the capital and most habitable areas, the Government continued efforts to rebuild housing and infrastructure. During the reporting period, the Government, in cooperation with DFID, continued efforts to accommodate those residents who had been displaced by the volcano eruption. According to statements made by the Chief Minister, housing remains one of the greatest challenges, and Montserrat is still short of about 900 houses that would adequately accommodate those who are still not in proper housing.[28]

37. The Government of Montserrat anticipates the completion in 2005 of the Lookout Service Lots and the commencement of 60 European Union-financed housing projects at Lookout. During 2004, a housing strategy review was conducted by a Caribbean consulting group, which is currently being considered. In April 2005, a DFID housing mission will asses future housing needs and possible interventions in Montserrat. In order to promote private ownership of homes built under previous public housing programmes, the Government has been working with financial institutions to facilitate the transfer of homes to the occupants on affordable terms.[26]

38. In July 2004, following the preparation of a single programming document, which comprises the framework for development cooperation between the European Union and Montserrat and was submitted to the European Development Fund in December 2003 and approved in May 2004, Montserrat signed an agreement with the European Commission, giving it access to the ninth European Development Fund of €11 million/EC$ 33 million. That sum is to be spread over five years for the purposes of sustainable tourism and the development of private-sector activity, and information and communication technology.[18]

39. The funds allocated under that aid programme will assist in the development of a well-organized town centre at Little Bay, with the associated development of port facilities. An important part of the proposed development of Little Bay is the $6 million cultural centre, now under construction and planned for completion early in 2006. It will be Montserrat's first cultural centre since volcanic activities destroyed the one in Plymouth. The cultural centre is expected to drive investment in an array of cultural arts, providing a home for artists and exhibitions, a recreation centre and a centre of learning, and fostering national consciousness and pride.[29]

40. The Government of Montserrat is making arrangements to provide suitable accommodation for Government ministries and departments in Little Bay and at the Government headquarters site.[30]

41. The development of site infrastructure work has been completed to relocate businesses in Little Bay. Consultants are finalizing the design for Little Bay Town development, and the Government will be spending more than $9 million to provide additional space for private sector development.[30]

42. During 2004, the Government of Montserrat disbursed approximately $10.4 million under Gerald's airport project, which has contributed to an overall increase in economic activity on the island. A substantial amount of local labour was utilized on the project. Employment was generated for local truckers and suppliers and a range of sub-contract services in the building and related trades. The airport's air traffic control system has been installed, the new access road, tunnel and terminal building have been commissioned and the fire building has been completed. Completion of the project's main element, the 600-metre runway platform, has been re-programmed for completion to allow air service to commence by the end of May 2005.[31] The Government of Montserrat awarded a two-year contract to the St. Maarten-based Windward Islands Air Transport Services (Winair) to operate scheduled flights between Montserrat and Antigua using a 19-seater Twin Otter aircraft. On 22 February 2005, the Princess Royal opened the new $3.3 million terminal building on her visit to Montserrat, saying she hoped it would provide a greater degree of socio-economic stability for the island.[32]

43. Montserrat has been without an airport since the closure of WH Bramble Airport in June 1997, following a volcanic eruption that destroyed the terminal and other airport buildings. Currently, the only means of transport in and out of the island is ferry or helicopter.[21] As at February 2005, the ferry MV *Opale Express*, which became the major mode of transportation out of Antigua upon the closure of WH Bramble airport in June 1997, is no longer in service. The Ministry of Communication and Works is finalizing arrangements to buy a new ferry, which is likely to be a 90-foot Hydrocruiser with a 35-knot cruising capacity, 144-passenger seating capacity, a 30-foot beam and four Cater Pillar engines, propelled by four water jets. The Government of Montserrat intends to maintain ferry services until the new airport is completed and commissioned for use. A task force has been established to study the feasibility of ferry services in the longer term.[33]

44. In 2004 $1,539,000 was spent on recurrent road maintenance, including road and drain cleaning. In addition, the Government allocated $3,500,000 for reinstatement of roads. Some of those funds were used to rehabilitate a major road in Olveston in 2004, and the remaining funds will be utilized on minor road projects in 2005. A project totalling $20,000,000 to eliminate backlog maintenance over a period of five years was submitted to DFID by the Government. In January 2005, the Public Works Department started a patching programme along the roads of Montserrat. A new access road and tunnel leading to the new airport at Gerald's opened for public use in August 2004.

45. In November 2004, a new prison facility built with funds from the United Kingdom and Montserrat was opened in Brades, next to the police headquarters. Since the volcanic eruptions in 1995, the prison on Montserrat has been relocated eight times and prisoners from Montserrat have had to relocate 105 times to the United Kingdom, the British Virgin Islands, the Cayman Islands, Jamaica and the Turks and Caicos Islands. One of the key areas of focus will be the rehabilitation of inmates, preparing them for re-entry into society. The opening of the prison coincided with the regional conference hosted by Montserrat for the first time since 1994. Some of the key issues discussed during the conference included alternatives to custody, the international obligations of the United Kingdom that extend to prisons in the Territories and disaster preparedness and management from a prison perspective.[34]

F. Agriculture and fisheries

46. As was reported in last year's working paper (A/AC.109/2004/13, para. 37), the Territory's agricultural sector suffered not only from the 1995 and subsequent volcano eruptions, but also from a prolonged dry spell in 2001. The volcanic eruptions in 1997 dramatically reduced the area of land under cultivation, and agriculture is now concentrated in the northern part of the island. The fertile soils of the south, however, are far superior to the windswept, heavily eroded soils of the north. Attempts are being made to increase production of fruits, vegetables, eggs and meat for the local market.[35]

47. The Government of Montserrat is finalizing protocols in a trade deal that will allow the export of certain food crops to Antigua. In March 2005, the Ministry of Agriculture, Lands, Housing and the Environment reached a tentative agreement with the Government of Antigua on the export of fruits and vegetables. Once the protocols are signed, the Government of Montserrat will be able to export many local agricultural products, with the exception of guava, pineapples, citrus fruits, coconuts and the fruits from the mango plants.[36] In 1996, a ban was placed on all fruits and vegetables coming from Montserrat because the island was infested with the Pink Mealybug. The bug has been under control for years, and the Montserrat Farmers Association is trying to get Montserrat back into the exporting business.[18]

48. A major highlight of 2004 was the agricultural exhibition held from 14 to 16 April. Although agriculture contributes less than 3 per cent of GDP and its performance declined in 2004, the exhibition highlighted the potential of the sector, which is expected to play a significant role in a revitalized Montserrat economy.[31]

49. In 2004, the cassava industry was given a boost with the introduction of modern processing equipment designed to improve the efficiency of processing that crop. A four-day workshop was held in collaboration with the Caribbean Agriculture Research and Development Institution for farmers and processors, with the hope that the cassava industry will form part of Montserrat's agroindustry and export trade.[31]

50. In an effort to assist the agricultural community in Montserrat, the agricultural department opened the Farmers Resource Centre in September 2004, which is equipped with computers and current agricultural publications. It also serves as a meeting place and a venue for training activities.[26]

51. Work on two major projects — construction of an abattoir in Barze's and construction of the public market in Little Bay — are scheduled to commence in 2005. These two projects will provide livestock and crop farmers with the opportunity to improve the packaging, presentation and general marketability of their products to the consumer.[26]

52. The Government of Montserrat has established a new Department of the Environment under the Ministry of Agriculture, Lands, Housing and the Environment in order to bring environmental matters to the forefront of Government planning.[37]

53. In January 2004, the Government of Montserrat banned all meat and meat products from the United States of America owing to one case of BSE, or mad cow disease, which was confirmed in the United States. This action taken by Montserrat is consistent with the unified approach taken by all CARICOM member countries.

The ban will remain in place until local authorities can confirm that the threat of BSE has been eliminated. Local meat producers were encouraged and supported in their efforts to fill the gap created by the imposition of the ban on meat and meat products from the United States.[4]

V. Social conditions

A. Education

54. In 2004, the Department of Education continued to implement the programmes outlined in the five-year education development plan, 2002 to 2007. This support will concentrate on activities aimed at building professional capacity within the Montserrat education system and improving quality with regard to the educational achievement of all children. In the area of early childhood education, another early childhood centre is planned for the new school year, possibly situated in Salem.[38]

55. Montserrat Community College started operations in September 2004 on a budget of $1 million. The programme is limited to the CXC Advanced Proficiency Examinations and part-time courses in two business subjects at the CSC Secondary Education Certificate level. It will be expanded to cover technical- and science-based programmes, including nursing education and other skills suited to Montserrat's development needs. It is also expected that the Community College will offer courses in collaboration with established universities in the region, Europe and the United States.[39]

56. In order to ensure that a wider cross-section of the population has access to tertiary education, the Government of Montserrat will make available a student loan programme that includes grant funding by July 2005.[13]

57. The medical school, which started with a pre-med programme in 2003, is on hold until the school is registered with the World Health Organization (WHO). The application was sent to the Governor's Office for signing and then forwarded to the Government of the United Kingdom. According to Professor Orien Tulp, President of the University of Science, Arts and Technology, the school must be listed on the WHO register when the student graduates, in order for a physician to become licensed to practise medicine in Montserrat and in almost all other countries. Referring to the World Directory of Medical Schools, WHO declares that it has no authority to grant any form of recognition or accreditation to schools of medicine or other training institutions. Such a procedure remains the exclusive prerogative of the national Government concerned. WHO limits itself to publishing information on medical schools that has been provided or confirmed by the Governments of its member States.[40]

58. In March 2005, the Montserrat Youth Council elected a new board of executive members during its general election. The first section of the meeting consisted of a review of the national youth policy.[41]

B. Health

59. According to the Chief Minister, in 2004, as part of the Government's initiative to upgrade and expand primary care clinic facilities, a new operating

theatre and mortuary were established, and St. Peter's Clinic was opened at its new location. The Government allocated $2,049,000 for the renovation of elderly care facilities such as the Hill View and Margetson Memorial Homes. The Ministry of Education, Health, Community Services and Labour is drafting a housing project for mentally challenged persons in various communities, which will respond to the housing and care needs of that group.[42]

60. The Government of Montserrat has made arrangements for all remaining public servants to be covered by the Social Security Scheme with effect from 1 January 2005. Additionally, a proposal from the public service unions regarding a more flexible pension scheme is awaited. Once that is concluded, the Government will take steps to introduce an appropriate national health-care insurance scheme to ensure that all citizens have access to health care.[43]

VI. United Kingdom development assistance

61. As was reported in the 2003 working paper (A/AC.109/2003/2, para. 53), the Government of the United Kingdom provides assistance to Montserrat to establish basic infrastructure in the safe northern part of the island. DFID earmarked £72 million between 2002 and 2005/06 for projects within the country policy plan. During a visit to Montserrat in June 2004, the Parliamentary Under-Secretary of State, Gareth Thomas MP, announced a new three-year package of assistance worth £40 million for Montserrat. The commitment is included in a new country policy plan, which sets out the agreed strategy for continued work in support of efforts of the Government of Montserrat to rebuild infrastructure and to regenerate the island economy.[44]

62. In September 2004, the Chief Minister of Montserrat, John Osborne, attended the sixth annual Overseas Territories Consultative Council meeting in London with the Foreign and Commonwealth Office and the Chief Ministers of all United Kingdom Territories. Among the major issues discussed during the meeting was constitutional modernization. Most territories identified changes that should be made in their relationship with the United Kingdom. These include reducing the role of the Governor in the Executive Council; improving the partnership between the United Kingdom and the Territories, which could lead to greater autonomy in government; and further clarity on the options identified by the General Assembly in its resolution 1541 (XV). Discussions also focused on sustainable development, disaster preparedness, the Overseas Territories Environment Programme, climate change, HIV/AIDS and child protection, in response to article 15 of the Convention on the Rights of the Child.[45]

VII. Relations with international organizations and entities

63. The Territory continues to be a member of CARICOM and the Organization of Eastern Caribbean States, as well as of the institutions associated with both groups, including the University of the West Indies, the Caribbean Development Bank and the Eastern Caribbean Central Bank. Montserrat is an associate member of the Economic Commission for Latin America and the Caribbean and its subsidiary bodies. The Territory is represented at the meetings of the Caribbean Group for Cooperation in Economic Development, sponsored by the World Bank.

64. As was reported in the 2004 working paper (A/AC.109/2004/13, para. 47), Montserrat intends to sign the treaty with the CARICOM Single Market and Economy (CSME), which will bring a closer integration between the 15 States members of CARICOM.

65. The Government of Montserrat is still awaiting the legal approval from the British Government to sign on to CSME and the Caribbean Court of Justice in its original jurisdiction.

66. According to information provided by the Government in November 2004, Montserrat has been granted more time to prepare for CSME. Regional leaders at the summit held in Trinidad, in November 2004, have decided to delay the full implementation of CSME until 2008. While the first phase of the single market is to be implemented by December 2005, a single economy will come into effect three years later. The Chief Minister, John Osborne, said he was confident that Montserrat would meet the new deadline. Montserrat expects to benefit from the Caribbean Development Fund, designed to assist weaker economies in the region. The Caribbean Development Bank is preparing the outline of the Caribbean Development Fund, which will come into effect in December 2005.[46]

67. Parliamentary officials and community leaders agree that there is a need for more public education on CSME and the Caribbean Court of Justice. Montserrat will benefit from United States Agency for International Development support valued at over $500,000 for public education on CSME. Funding will be available to CARICOM member States to support the second phase of a public education project, which began early in 2004.[47]

68. In June 2004, private sector facilitation meetings were held in Montserrat to discuss the CSME work programme for 2004-2005, which includes the development of a regional private sector collaborative network, the creation of a direct mail service, the establishment of an inbound telemarketing service, an interactive link — a CSME page on the CARICOM website — and the involvement of the private sector in business development opportunities created by international programmes.[48]

69. The Government of Montserrat is participating in the harmonized system by implementing the final phase of the Common External Tariff, with effect from 1 June 2004. When that tariff is implemented, it will be more aligned with that in CARICOM and to the lower rates proposed by the World Trade Organization.

VIII. Future status of the Territory

A. Position of the territorial Government

70. During the discussion on the distribution of powers and responsibilities between the Governors and the elected officials of the Territories, at the fifth annual meeting of the Overseas Territories Consultative Council in December 2003, the Chief Minister of Montserrat agreed with the representatives of other Territories that, without a reduction in the Governor's powers, it would not be possible to develop. Montserrat was grateful for the assistance received from the United Kingdom, but an arrangement where responsibility for the civil service and police rested with the Governor rather than with independent public and judicial service

commissions gave the Territories no opportunity to prepare for eventual independence. The Chief Minister had to have a say in the appointment of the Commissioner of Police. Montserrat had no real problems with the relationship with the United Kingdom, but the Chief Minister sympathized with the colleagues who felt that too many matters were imposed upon them from London.

B. Position of the administering Power

71. In February 2005, regarding the issue of independence, the United Kingdom Minister for the Overseas Territories, Bill Rammell, M.P., distributed a policy memorandum to all territorial Governors, including the Governor of Montserrat, which stated that a referendum was the favoured choice of the British Government for the people to express their choice on the future political status of the Territories. The Minister said that the United Kingdom had to be satisfied that any Territory that decided to become independent was doing so on the basis of the clearly and constitutionally expressed wish of the people and that the presumption of the British Government was that a referendum was the most appropriate way of testing that.[49]

72. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that the United Kingdom again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it last met.

73. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by the Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their equivalents from the Territories and United Kingdom Government Ministers. The meeting in 2004 again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the international obligations of the United Kingdom.

74. The representative stated that the Minister for the Overseas Territories had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, in the past year. These had enabled him to meet a range of people in the two Territories and to get better, first-hand, knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own Territories.

75. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been submitted in December 2003. Dates had not yet been set for formal talks.

76. Conscious of the limited resources in a number of the Territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification, to the reform of legislation governing child and family welfare, to a study on the alternatives to custodial sentencing.

77. He recalled that, in 2003, the representative of the United Kingdom had said that additional funds were expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environmental work in the Territories and the implementation of the Overseas Territories Environment Charters signed in 2001. The joint Overseas Territories Environment Programme was funding 23 new projects in 2004-2005, three of which were multi-territory initiatives. They included habitat restoration, surveys of natural living resources and capacity-building for both Government and civil society institutions.

78. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

79. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liasing with the Commission had been appointed in 2003 to the Foreign and Commonwealth Office Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the European Union-Overseas Countries and Territories Overseas Association Decision of November 2001.

80. The representative said that the United Kingdom continued its informal cooperation with the Special Committee. The most recent involvement had been when a United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee seminar held in Papua New Guinea in May 2004. He stated that perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the Secretariat was in touch directly with Bermuda on preparing for that.

IX. Consideration by the General Assembly

81. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B without a vote; section VII of resolution 59/134 B is specifically devoted to Montserrat.

Notes

[1] The information contained in the present paper has been derived from published reports and information available on the Internet. The facts and figures presented in the working paper are the latest information available.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", United Kingdom White Paper, March 1999 (A/AC.109/1999/1 and Corr.1, annex).

[3] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 4 (see www.gov.ms).

[4] www.gov.ms/archives.

[5] *St. Helena Herald*, 25 April 2003.

[6] *The Island Sun*, 29 March 2003.

[7] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 19 (see www.gov.ms).

[8] BBC Caribbean, 19 February 2005.

[9] *The Royal Gazette*, 16 October 2003.

[10] www.giu.gov.ms.

[11] www.giu.gov.ms/archives, 4 June 2004.

[12] Ibid., 30 June 2004.

[13] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 25 (see www.gov.ms).

[14] *Caribbean Insight*, 1 August 2003, vol. 26, No. 27.

[15] Assessment of the Hazards and Risks Associated with the Soufriere Hills Volcano, Montserrat, Third Report of the Scientific Advisory Committee on Montserrat Volcanic Activity, issued 21 October 2004 (see www.mvo.ms).

[16] www.giu.gov.ms/archives, May 2004.

[17] *The New York Times*, 9 August 2004.

[18] *The Montserrat Reporter*, 5 September 2004.

[19] *The New York Times*, 2 March 2005.

[20] BBC Monitoring Americas, 4 August 2004.

[21] Ibid., 12 August 2003.

[22] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 3 (see www.gov.ms).

[23] Ibid., p. 21.

[24] Agence France-Presse, 7 March 2002.

[25] *The Montserrat Reporter*, 11 March 2005.

[26] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 11 (see www.gov.ms).

[27] Ibid., p. 12.

[28] *Trinidad News*, 31 July 2004.

[29] *The Montserrat Reporter*, 24 January 2005.

[30] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 7 (see www.gov.ms).

[31] Ibid., p. 10.

[32] BBC Monitoring Americas, 24 February 2005.

[33] *The Montserrat Reporter*, 31 January 2005.

[34] www.giu.gov.ms/archives, 16 November 2004.

[35] Ibid., 1 September 2004.

[36] *The Montserrat Reporter*, 24 March 2005.

[37] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 20 (see www.gov.ms).

[38] Ibid., p. 15.

[39] Ibid., p. 16.

[40] *The Montserrat Reporter*, September 2004 (see www.who.int/hrh/vdms/eng).

[41] Ibid., 18 March 2005.

[42] The 2005 Budget Speech by Chief Minister John A. Osborne, p. 14 (see www.gov.ms).

[43] Ibid., p. 18.

[44] www.giu.gov.ms/archives, 23 June 2004.

[45] Ibid., 28 September 2004.

[46] Ibid., 12 November 2004.

[47] BBC Monitoring Americas, 30 July 2004.

[48] www.giu.gov.ms/archives, 11 June 2004.

[49] BBC Monitoring Americas, 15 February 2005.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1	3
II.	Constitutional and political developments	2–7	3
	Constitution and Government	2–7	3
III.	Mine clearance	8–9	5
IV.	Economic conditions	10–48	5
	A. General	10	5
	B. Public finance	11–12	5
	C. Agriculture, land tenure and livestock	13	6
	D. Fisheries	14–41	6
	E. Tourism	42	10
	F. Transport, communications and other basic facilities	43–46	10
	G. Banking	47	11
	H. Public works	48	11
V.	Social conditions	49–53	11
	A. General	49–50	11
	B. Public health	51	12
	C. Social security and welfare	52	12

05-30412 (E) 020505 040505

	D. Education	53	12
VI.	Participation in international organizations and arrangements	54	12
VII.	Consideration by the United Nations	55–69	13
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	55–58	13
	B. Position of the Government of Argentina	59	15
	C. Position of the administering Power	60	16
	D. Contributions by other Member States	61–62	16
	E. Action by the General Assembly	63	17
	F. Consideration by other intergovernmental organizations and international forums	64–69	17

I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are considered a separate Territory and are administered from the Falkland Islands (Malvinas); the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the 2001 census, the population of the Territory is 2,391 (not including an estimated 112 residents temporarily absent and 534 military personnel), up from 2,221 in 1996.

II. Constitutional and political developments

Constitution and Government

2. Detailed information on the Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

3. On 10 June 2004, the Government of Argentina issued the following press communiqué:

> "On 10 June, the 'Day of Affirmation of Argentine Rights over the Malvinas Islands and the Antarctic Sector', the Argentine Nation commemorates the creation in 1829 of the Political and Military Command for the Malvinas Islands and islands adjacent to Cape Horn in the Atlantic Ocean, through a decree issued by Brigadier Martín Rodríguez, acting Governor of Buenos Aires province.
>
> Since its inception as an independent nation, the Argentine Republic has demonstrated, through various acts of Government, its firm political will to exercise effective sovereignty over the southern territories and maritime areas that it inherited from Spain.
>
> Through this act the Government of Argentina reaffirmed its legitimate titles over the Islands and sought to ensure respect of the laws so as to protect without any discrimination the activities of the Argentine and non-Argentine population that resided on the Islands. Thus, the institutional framework was established for the subsequent undertakings of the Governor of the Malvinas Islands, D. Luis Vernet.
>
> This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Malvinas Islands, expelling the Argentine population and authorities settled there and replacing them with others of British origin.

The people and Government of Argentina never consented to that act of force and today, as in the past, they confirm their permanent and unwavering determination to regain the exercise of sovereignty over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas, through the peaceful path of diplomatic negotiations and in accordance with the many appeals of the international community.

Argentina's claim has traditionally been supported by the countries of our region and by major international and regional organizations, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly called on the Governments of the Argentine Republic and the United Kingdom to resume negotiations with a view to resolving the sovereignty dispute in a peaceful and conclusive manner.

On this important date, the Argentine Government reiterates its unwavering sovereignty claim over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas. At the same time, it reaffirms its permanent willingness to resume negotiations with a view to settling as soon as possible and in a just and conclusive manner the still unresolved sovereignty dispute."

4. In a letter dated 8 June 2004 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/58/840), the Permanent Representative transmitted the text of the protest note sent on 8 June 2004 by the Ministry of Foreign Affairs of Argentina to the Embassy of the United Kingdom in Buenos Aires concerning the modifications introduced in the situation of the British military base in the Falkland Islands (Malvinas). The note formally protested "the recent upgrading of the British military base" in the Falkland Islands (Malvinas) and stated that the Argentine Government considered that the protested measure was in violation of General Assembly resolution 31/49, which calls upon the two parties in the dispute to refrain from introducing unilateral modifications in the situation while the islands were going through the process recommended in the relevant resolutions of the General Assembly.

5. In a letter dated 28 July 2004 from the Permanent Representative of the United Kingdom to the United Nations addressed to the Secretary-General (A/58/860), the Permanent Representative informed the Chairman that his Government rejected the contents of the letter of 8 June of the Permanent Representative of Argentina to the Secretary-General, stating that there was no substance to those claims and that "the change in titles to Head Quarters British Forces South Atlantic Islands and Commander British Forces South Atlantic Islands" simply reflected changes in administrative structures. The Permanent Representative stated that there had been no change in the mission or role of the United Kingdom Armed Forces providing security for the Falkland Islands (Malvinas) and South Georgia and the South Sandwich Islands.

6. In a Christmas radio message, Prime Minister Tony Blair stated that the United Kingdom would continue to discuss with Argentina issues of mutual concern and benefit to the Falkland Islands (Malvinas), building on meetings over shared fish stocks, the continental shelf and de-mining, but that there was no lessening of the Government's commitment to the islanders' security, sovereignty and self-

determination. He said that position would not change unless the islanders decided otherwise.

7. In a letter dated 3 January 2005 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/59/662), the Permanent Representative transmitted the text of a statement issued on that date by the Government of Argentina "on the occasion of another anniversary of the illegitimate British occupation of the Malvinas Islands".

III. Mine clearance

8. On 26 and 27 October 2004, the second meeting of the Joint Working Party for carrying out a feasibility study on the clearance of landmines in the Falkland Islands (Malvinas) was held in London with the participation of diplomats and experts from the United Kingdom and Argentina. The meeting took place in accordance with the understanding recorded in the Exchange of Notes of 11 October 2001, and is covered by the formula on sovereignty included in those notes. The Joint Working Party considered the overall aims of the feasibility study, its technical and financial aspects, as well as management issues. In that respect, it appointed new project managers. Understandings were reached on a number of practical measures. It also agreed to perform several tasks in fulfilment of shared commitments to carry out the study. The Joint Working Party will meet next during the second quarter of 2005, in Buenos Aires.

9. In February 2005, it was reported that a fact-finding team composed of representatives of the United Kingdom Ministry of Defence and the Department for International Development and Landmine Action, a not-for-profit company, had spent six days in the Falkland Islands (Malvinas). The team visited Stanley and the West Falkland settlements of Port Howard and Fox Bay. Landmine Action has indicated that 16,600 mines remain in the Islands, distributed in 101 minefields. The team will submit a report to the United Kingdom Government on its findings.[2]

IV. Economic conditions

A. General

10. According to the administering Power, the pace of economic development has accelerated dramatically since 1982. In 1984, the Falkland Islands Development Corporation was formed to encourage the development of a private sector. This rapid growth resulted initially from the influx of British Government aid, but subsequently from the development of fisheries. However, new challenges have emerged as Government revenue has been maximized and is fully committed. The period of government-expenditure-driven economic growth is drawing to a close, making future growth dependent on the growth of the private sector.

B. Public finance

11. The Territory's financial year runs from 1 July to 30 June. For 2003/04, the original estimate for total revenue was 50.5 million British pounds (£), of which

more than half (£25.8 million) came from fisheries. Other sources of revenue were taxation (£5.1 million), investment income (£4.1 million) and revenue derived from public works (£4.4 million). During the same period, the original estimate for total expenditure was £43.9 million.

12. As previously reported, the Legislative Council approved, in 2003, a bill implementing recommendations for a tax policy review. The new income tax rates, which came into effect on 1 January 2004, changed and simplified the system from a three-tier to a two-tier system. The first £12,000 of chargeable income will be taxed at 20 per cent and the remainder at 25 per cent, while most of the existing income tax deductions are being removed. Significant changes were also made for corporate taxpayers, including: lowering of rates in order to bring them into line with income tax rates; abolition of the advance corporation tax; improvements for group relief; abolition of initial depreciation allowances; and carry back of losses.[3]

C. Agriculture, land tenure and livestock

13. Detailed information on agriculture, land tenure and livestock is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11). According to the administering Power, there are 85 farms in the Falkland Islands (Malvinas). Direct subsidies to farmers have virtually ended and have been replaced by improvement programmes. These include pasture improvement grants and support for the genetic modification of sheep and cattle in order to improve the quality of wool and meat as well as agricultural improvement and business schemes on offer by the Department of Agriculture. A business plan for the Department, which is supported by farmers, emphasizes the need for farms to be managed as profitable businesses. The agricultural budget for 2004/05 is £1.1 million.

D. Fisheries

14. Loligo and Illex squid are the mainstay of the territorial fisheries and economy. In addition to the two squid species, a number of finfish are targeted, including blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. In late 2003, the Fisheries Committee met to consider the development of a new fisheries policy and the eligibility of those who could hold fishing rights under the new arrangement for the establishment of long-term rights in the various Falkland Islands (Malvinas) fisheries.[4]

15. The South Atlantic Fisheries Commission, which was established by Argentina and the United Kingdom through the Joint Statement of 28 November 1990, has met regularly and worked without interruption since then for the conservation of fisheries resources in that area.

16. On 1 and 2 July 2004, the 25th meeting of the South Atlantic Fisheries Commission was held in London. The British delegation was led by Tony Crombie, the head of the Overseas Territories Department of the Foreign and Commonwealth Office. The Argentine delegation was led by Ambassador Santos Goñi, Head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs. In a joint press statement, both delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and

the surrounding maritime areas, contained in paragraph 2 of the joint declaration issued in Madrid on 19 October 1989, applied to the meeting and its results.

17. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 22nd meeting, held in London on 28 and 29 June 2004. The Commission welcomed the continuing cooperation between the National Institute for Fisheries Research and Development and the Imperial College, which contributed to the Commission's understanding of the scientific aspects of the fisheries of significant species. It was pleased that both institutions had agreed to continue with the implementation of joint projects.

18. Both delegations reaffirmed the importance they attached to ensuring the sustainability of fish stocks, and reiterated the commitment of both Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended to both Governments the continuation of further scientific research in order to achieve greater understanding of the most significant off-shore species in the area.

19. The Commission noted the serious concerns raised by the Scientific Subcommittee concerning the status of the Illex stock, particularly that recruitment and catches in 2004 were the lowest on record. It also noted the concerns of the Subcommittee about the level of uncertainty associated with the estimate of spawning stock biomass of Illex remaining at the end of the 2004 season. Given those indicators and concerns, the Commission agreed to recommend to both Governments that a very precautionary approach be taken to the conservation of the species.

20. The Commission also agreed to recommend to both Governments the holding of a two-day workshop on Illex before the next meeting of the Subcommittee, in order to address the concerns held by both delegations about the status of the Illex fishery, including considering possible changes to the early warning system, within a more precautionary framework. It also agreed to recommend the undertaking of a joint survey to assess recruitment of the Illex stock in February 2005.

21. Both delegations stressed their support for enhancements to the early warning system. The exchange of real-time data on fishing operations remained central to the operation of the system. The Commission agreed to recommend to both Governments that, until such time as agreement is reached on any increased escapement target, every effort be made to maintain the level of Illex spawning stock biomass at the end of the fishing season above the previously agreed level, in order to ensure stock sustainability.

22. Recalling the Commission's concerns about the importance of achieving sustainability in the southern blue whiting fishery, the Commission noted that current analysis indicated that the decline in stock size had been arrested. However, those results are subject to a considerable level of uncertainty, and the Scientific Subcommittee had therefore recommended that the catches of southern blue whiting in the South-West Atlantic should remain at 55,000 tons to maintain the stock size. Given the need to maintain a precautionary approach to this important fishery, the Commission agreed that further scientific investigation was required to clarify uncertainty in the status of this stock.

23. The Commission noted the ongoing research on southern blue whiting and the information gained from the two-vessel survey of that species. The Commission

agreed to recommend that a joint survey on the species start in September 2005 and that, in further discussion on the species, the Scientific Subcommission should take account of the findings of the survey and provide recommendations to the Commission at its next meeting.

24. The two delegations exchanged views on further issues relating to cooperation on fisheries conservation. They agreed that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic.

25. Both delegations referred to practical measures needed to prevent poaching, given that it can undermine conservation of fish stocks in the South-West Atlantic. They agreed to continue to enhance efforts to achieve those objectives in a coordinated way.

26. The Argentine delegation reiterated its concern about the situation created by the British decision with respect to the area described in the annex to the Joint Statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

27. The two parties undertook to maintain contact through diplomatic channels, with a view to agreeing on the place and date of the next meeting of the Commission. That meeting would be preceded, as usual, by a meeting of the Scientific Subcommittee.

28. On 9 and 10 December 2004, the 26th meeting of the South Atlantic Fisheries Commission was held in Buenos Aires. The Argentine delegation was led by Ambassador Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, and the British delegation was led by Tony Crombie, the head of the Overseas Territories Department of the Foreign and Commonwealth Office.

29. The Argentine and British delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the Joint Declaration issued in Madrid on 19 October 1989, applied to that meeting and its results.

30. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 23rd meeting, held in Mar del Plata, Argentina, on 6 and 7 December 2004. The Commission welcomed the continuing cooperation, in the framework of the Subcommittee, between the scientists from the National Institute for Fisheries Research and Development and the Imperial College, which contributed to the Commission's understanding of the scientific aspects of the fisheries of significant species. It was pleased that both institutions had agreed to continue with the implementation of joint projects.

31. Both delegations reaffirmed the importance they attach to ensuring the sustainability of fish stocks and reiterated the commitment of both Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended to both Governments the continuation of further scientific research in order to achieve greater understanding of the most significant off-shore species in the area.

32. The Commission noted the serious concerns raised in the Subcommittee regarding the status of the Illex stock, in particular the fact that recruitment and catches in 2004 were the lowest on record. It also noted that the level of spawning biomass of Illex remaining at the end of the 2004 season was also the lowest observed. Furthermore, it was noted that prevailing oceanographic conditions appeared to be unfavourable for recruitment. In the light of the above, the Commission agreed to recommend to both Governments that a precautionary approach be taken in order to ensure the conservation of the species.

33. The Commission endorsed the recommendations of the Subcommittee that the subsequent escapement target for an enhanced early warning system should be 90,000 to 95,000 tons of the spawning stock biomass present in the fishery in the last week of April, the midpoint of the period of maximum reproduction. The Commission agreed to recommend this enhancement of the early warning system to both Governments. It is significantly more precautionary compared to the target of 40,000 tons for the spawning stock biomass at the end of the season, including a much higher level of spawning stock biomass during the period of peak reproductive activity of the stock.

34. The Commission further recommended that a joint survey to assess recruitment of the Illex stock should take place in February 2005.

35. Recalling the Commission's concerns about the importance of achieving sustainability in the southern blue whiting fishery, the Commission noted that current analysis indicated that the decline in stock size had been arrested. Those results were, however, subject to a considerable level of uncertainty, and the Subcommittee had therefore recommended that, until new scientific evidence is presented, the catches of southern blue whiting in the South-West Atlantic remain at a level of about 55,000 tons in order to maintain the stock size. Given the need to maintain a precautionary approach to this important fishery, the Commission agreed that further scientific investigation was required to clarify uncertainty in the status of the stock.

36. The Commission agreed to recommend that a two-day workshop on this species take place before the next Subcommittee meeting to discuss the objectives and the design of the future southern blue whiting survey and possible alternative methods of stock assessment.

37. The two delegations exchanged views on further issues relating to cooperation on fisheries conservation. While concurring that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic, they recognized that, for the time being, progress on the matter is constrained by wider considerations.

38. With regard to high seas fisheries, both delegations referred to the need to continue exchanging data and the importance of doing so in a timely way.

39. Both delegations referred to practical measures needed to prevent poaching, given that it can undermine the conservation of fish stocks in the South-West Atlantic. They agreed to continue to enhance efforts to achieve those objectives in a coordinated way.

40. The Argentine delegation reiterated its concern regarding the situation created by the British decision on the area described in the annex to the Joint Statement of 28 November 1990 and the area to the west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

41. The two parties stated that they would maintain contacts through diplomatic channels, with a view to agreeing on the place and date of the next meeting of the Commission. That meeting would be preceded, as usual, by a meeting of the Scientific Subcommittee.

E. Tourism

42. There has been significant expansion of the Falkland Islands (Malvinas) tourist industry in recent years. The United Kingdom is currently the principal market, but the Falkland Islands Tourist Board, a department of the Falkland Islands Development Corporation, has focused efforts on developing new contacts with tour operators in the United States and Europe. According to the administering Power, land-based tourists, interested principally in wildlife and birdwatching, are the major source of tourist income, estimated at £0.4 million, with cruise vessels bringing a further £0.2 million.

F. Transport, communications and other basic facilities

43. Detailed information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

44. During the period under review, LanChile continued to provide regular round-trip service from Punta Arenas (Chile) to the Falkland Islands (Malvinas), including two monthly stop-overs in Rio Gallegos (Argentina), one in each direction, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. That service is carried out in the framework of commercial air agreements between Argentina and Chile. The Exchange of Notes Agreement of 23 February 2001, between Argentina and the United Kingdom, placed private navigation and private aerial navigation between Argentina and the Falkland Islands (Malvinas) under a formula of sovereignty. Thus, Argentina considers and authorizes non-regular flights to the Falklands (Malvinas) on a case-by-case basis.

45. As from 3 November 2003, Argentina does not authorize non-regular flights between third countries and the Falkland Islands (Malvinas) by any company flying under a third country flag. That position does not affect the continuation of the above-mentioned regular service and does not apply to emergency situations or health evacuation flights.

46. In late 2003 and the first quarter of 2004, Argentina and the United Kingdom exchanged views on the Argentine proposal aimed at the establishment of direct regular air service between Argentina and the Falkland Islands (Malvinas). The United Kingdom stated that any arrangements would need to be acceptable to the

islanders. No agreement between Argentina and the United Kingdom has been reported to date.

G. Banking

47. Both British and local coinage is used, together with local currency notes. There is parity between United Kingdom and Falkland Islands (Malvinas) currency. The Standard Chartered Bank of the United Kingdom opened a branch in Stanley in December 1983.

H. Public works

48. The Public Works Department of the territorial Government is responsible for road-building projects, municipal services, construction projects and supplying water and electricity to the residents of Stanley. Recent projects have included an extension of Stanley Infant/Junior School and the building of a new abattoir. The total length of roads outside Stanley has continued to increase and is now 660 kilometres, increasing by 50 kilometres per year.

V. Social conditions

A. General

49. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of England applies in the Falkland Islands (Malvinas), except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas). There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas), with the agreement of the territorial Government.

50. According to the Government of Argentina, those declarations by the United Kingdom regarding the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands were rejected by the Government of Argentina by its declarations of 3 October 1983 and 8 August 1986 on the International Covenant on Economic, Social and Cultural Rights, of 3 October 1983, 8 August 1986 and 5 October 2000 on the International Covenant on Civil and Political Rights, and of 4 April 1989 on the Convention on the Elimination of All Forms of Discrimination against Women.

B. Public health

51. The general state of health in the Falkland Islands (Malvinas) is good. There is no private system of medical care. Medical and dental treatments and prescription drugs are free to all residents and to United Kingdom citizens. All medical services are based at the King Edward VII Memorial Hospital in Stanley, which provides a full range of primary-care services to the civilian population, military personnel stationed in Stanley and foreign fishing fleets around the Islands. In addition, there is a visiting medical service to outlying farm settlements. The Hospital has facilities to deal with acute medical and surgical conditions. It has 28 beds, including two maternity and two intensive care beds. Cases requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile, or in emergencies, to Uruguay. The estimated expenditure for health and social services in 2004/05 was £5.4 million.

C. Social security and welfare

52. The Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced during 1998. That scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in operation to deal with hardship and disability cases. The estimated social payments for 2002/03 were £34,050.

D. Education

53. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16. The local Government provides staff, equipment and supplies for education, has a primary and a secondary school in Stanley and operates four small settlement schools on large farms. In the rural areas, younger children either attend the settlement schools or are visited by one of the six travelling teachers for two weeks out of every six. There are also radio and telephone lessons available. Students above the age of 16 who qualify in exams are funded for studies in the United Kingdom. In 2004, there were 378 schoolchildren being educated in the Falkland Islands (Malvinas). Expenditure for education for 2003/04 was estimated at £4.4 million.

VI. Participation in international organizations and arrangements

54. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of the Government have participated, as members of

the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the Joint Statement of 14 July 1999.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

55. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 9th meeting, on 18 June 2004. At that meeting, the Special Committee decided to accede to the request of Argentina, Brazil, Paraguay, Peru and Uruguay to participate in the consideration of the item. At the same meeting, in accordance with a previous decision taken by the Special Committee at its 7th meeting, statements were made by Councillors Michael Summers and Roger Edwards of the Legislative Council of the Falkland Islands (Malvinas). Alejandro Betts and Maria Angelica Vernet also made statements (see A/AC.109/2004/SR.9).

56. At the same meeting, the representative of Chile, on behalf of the Bolivarian Republic of Venezuela, Bolivia, Chile and Cuba, introduced a draft resolution on the item (A/AC.109/2004/L.8). The draft resolution reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom. It requested both parties to consolidate the current process of dialogue and cooperation through the resumption of negotiations in order to find a solution, in accordance with the provisions of the relevant General Assembly resolutions.

57. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina, Rafael Bielsa, stated, inter alia:

> "On 3 January 1833, British forces expelled the Argentine inhabitants and authorities established in the Malvinas Islands and began their illegal occupation, creating a special colonial situation unlike any other. This is confirmed in numerous resolutions of the General Assembly and of this Committee.
>
> In this respect, I should like to recall that 40 years ago, this Committee laid the foundations for the doctrine later reflected in General Assembly resolution 2065 (XX), which establishes that the Malvinas question refers to the dispute between the Argentine Republic and the United Kingdom concerning sovereignty over the Islands, which should be resolved through negotiations, bearing in mind the provisions and objectives of the Charter and of General Assembly resolution 1514 (XV) and the interests of the population of the Islands.
>
> General Assembly resolution 2065 (XX) clearly specifies, first, that there is a dispute concerning sovereignty over the Malvinas Islands; second, that in that dispute there are only two parties: the Governments of the Argentine Republic and of the United Kingdom; third, that its solution must be found through negotiations between the two Governments, as the only way to put an end to the colonial situation; and fourth, that both parties, in the search for a

solution, must take into account the interests of the inhabitants of the Malvinas Islands, which therefore excludes the application of the principle of self-determination.

It should be recalled that in 1985 the General Assembly took a clear position in that regard when it rejected two British amendments that aimed to include that principle in the relevant draft resolution.

I should like to stress that paragraph 6 of resolution 1514 (XV) states that 'any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country' — in this case, my country — 'is incompatible with the purposes and principles of the Charter of the United Nations'. Thus, in the question of the Malvinas, the violation through a nineteenth century imperialist act of the sovereignty and territorial integrity of an independent republic, Argentina, recognized by Great Britain itself, makes the principle of territorial integrity take precedence over the principle of self-determination.

It should be borne in mind that the United Kingdom, since committing the outrage of expelling the Argentine authorities, has excluded mainland Argentine inhabitants from the islands, establishing in their place a population of British origin.

To maintain that the inhabitants of the islands have the right to self-determination would make them the arbiters of a territorial dispute to which the country that has settled them is a party. In other words, the colonial Power would validate its own usurpation and justify itself.

The sovereignty claim over the islands is a matter of deep concern to the Argentine nation and was thus enshrined in the national Constitution in 1994. All Argentines are firmly committed to a peaceful settlement of this dispute. In his inaugural address to the national Congress on 1 March 2004, President Néstor Kirchner stressed that the sovereignty claim over the Malvinas Islands is a matter of the national interest and is the subject of a set of State policies that everyone must defend.

This Committee is aware of the constant desire of the Argentine Government to find a just, peaceful and lasting solution to this problem, which is a priority of my country's foreign policy. The resolutions of this forum, as well as those of the General Assembly, urge the parties to resume sovereignty negotiations without delay.

Our country has clearly indicated its willingness to negotiate. Unfortunately, the United Kingdom persists in ignoring these appeals by the international community. Its obstinacy in delaying negotiations on the question of sovereignty over the islands will not change their situation, on which this Committee, the General Assembly and the Organization of American States have all taken a position.

It is therefore necessary for both parties to the dispute to resume sovereignty negotiations as soon as possible. At the same time, it is equally important for the members of this Committee to continue to support this goal.

Since 1989, both countries have reached provisional understandings under the sovereignty formula regarding practical aspects of the South

Atlantic. These understandings must not be interpreted as acceptance by Argentina of an alleged status quo in the region, however, and are not a substitute for a final solution to the dispute.

My Government regards as inadmissible the unilateral British actions in the disputed area, which are in violation of General Assembly resolution 31/49. That resolution calls upon the parties to refrain from introducing unilateral modifications in the situation while the islands are going through the process of decolonization.

Despite this, on more than one occasion the United Kingdom has failed to respect the terms agreed upon with the Argentine Republic, which does not accept, and has protested against and rejected, alleged exercises of British jurisdiction in the disputed areas.

These include, in the past year, fisheries police activity in the South Atlantic from and outside the disputed area, seismic hydrocarbon surveying activities, and the granting of licences for the exploration and exploitation of minerals and related aeromagnetic surveying activities.

Along with these actions, there are the continued exclusion of mainland Argentina from direct contacts and communications with the Malvinas Islands, British reluctance to proceed with confidence-building measures in the military sphere, the continued sale of illegal fishing licences in the Argentine exclusive economic zone and the persistent presence and recent upgrading of the British military base in the Malvinas Islands, extending its operational capacity beyond the disputed area, which my Government has brought to the attention of the United Nations, the Organization of American States and the countries of the region.

In addition, there have been attempts to achieve a presence for the islands and their illegal representatives in international organizations and events, as well as procedures for the extension of international conventions to the disputed area."

58. At the same meeting, the representatives of the Bolivarian Republic of Venezuela, Brazil (on behalf of the Rio Group), China, the Congo, Cuba, Ethiopia, Fiji, Grenada, Indonesia, Paraguay (on behalf of the MERCOSUR countries, and Bolivia, Chile and Peru), Sierra Leone, the Syrian Arab Republic, Tunisia and Uruguay, made statements (for the summary of the statements see A/AC.109/2004/SR.9).

B. Position of the Government of Argentina

59. On 21 September 2004, the President of Argentina addressed the General Assembly. During the course of his statement, he said:

"International disputes must be settled through peaceful means. The United Nations has established, through various resolutions of the General Assembly and the Special Committee, that the question of the Malvinas Islands, South Georgia and the South Sandwich islands is a special colonial situation which must be resolved through bilateral negotiations between my country and the United Kingdom.

The Special Committee has expressed itself repeatedly on this issue, and we greatly appreciate its work to promote the resolution of this question.

We reaffirm once again the constant willingness of my country to reach a just, peaceful and lasting solution to this sovereignty dispute, which is an issue of great importance for the people of Argentina.

We urge the United Kingdom to comply promptly with the international community's appeal and to resume negotiations."

C. Position of the administering Power

60. By a letter dated 30 September 2004, addressed to the President of the General Assembly (A/59/406), the Permanent Representative of the United Kingdom stated the position of his Government in reply to the remarks of the President of Argentina in his address to the General Assembly on 21 September 2004:

"The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

"The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of Twenty-four. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.

"There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Islanders so wish.

"The United Kingdom has no doubts about its sovereignty over the Falkland Islands."

D. Contributions by other Member States

61. On 4 October 2004, during the debate on decolonization issues at the Fourth Committee of the General Assembly, several representatives referred to the question of the Falkland Islands (Malvinas). The representative of Brazil, speaking on behalf of the States members of the Rio Group (Argentina, the Bolivarian Republic of Venezuela, Bolivia, Brazil, Colombia, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay), said that the Rio Group considered that it was necessary for Argentina and the United Kingdom to resume negotiations in order to find a just, peaceful and definitive solution to the sovereignty dispute over the Falkland Islands (Malvinas), in accordance with the relevant resolutions and declarations of the General Assembly, the Special Committee on Decolonization and the Organization of American States. The representative of Paraguay, speaking on behalf of the States members and associated States of MERCOSUR (Argentina, Bolivia, Brazil, Chile, Paraguay, Peru and Uruguay), expressed hope for the resumption of negotiations between Argentina and the United Kingdom. He also

reiterated the terms of the declarations on the question of the Falkland Islands (Malvinas) adopted by the meetings of the Presidents of the MERCOSUR countries and its associated States (Bolivia and Chile) in 1996, at Potrero de los Funes, and in 1999, at Asuncion, supporting the legitimate rights of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas). The representative of the Bolivarian Republic of Venezuela and Cuba reiterated the support of their Governments for the legitimate right of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas).

62. The representative of the United Kingdom, in exercise of the right of reply, said that his country's position had been set out in detail in document A/59/406 (see para. 60 above).

E. Action by the General Assembly

63. By adopting resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present report, there had been no such notification by a Member State to the fifty-ninth session of the General Assembly.

F. Consideration by other intergovernmental organizations and international forums

64. On 8 June 2004, the General Assembly of the Organization of American States (OAS), adopted a Declaration on the Question of the Malvinas Islands (Falkland Islands) (resolution AG/DEC.38 (XXXIV-O/04)), in which, inter alia, it welcomed the reaffirmation of the will of the Argentine Government to continue exploring all possible avenues towards a peaceful settlement of the dispute and its constructive approach towards the inhabitants of the Malvinas Islands. It reaffirmed the need for the Government of Argentina and the United Kingdom to begin negotiations on the sovereignty dispute as soon as possible, in order to find a peaceful solution to that protracted controversy. The Assembly of OAS decided to continue to examine the question of the Malvinas Islands at its subsequent sessions, until a definitive settlement has been reached thereon.

65. Speaking before the OAS Assembly, the Minister for Foreign Affairs, International Trade and Worship of Argentina stated:

> [...] "The 'question of the Malvinas Islands', which this Organization has declared to be of permanent interest to the hemisphere, needs to be dealt with and discussed until a definitive solution is achieved. The Governments of the Argentine Republic and the United Kingdom must resume negotiations on sovereignty with a view to achieving a peaceful settlement of the dispute.
>
> ... This Assembly is aware of the continued willingness of the Argentine Government to reach a just, peaceful and lasting solution to this pressing issue regarding my country's foreign policy. The statements made in this forum and the resolutions of the United Nations General Assembly call upon the parties to resume the negotiations on sovereignty without delay.

> My country has demonstrated clearly and repeatedly its willingness to resume negotiations on sovereignty, but it has not been possible to restart them because of the United Kingdom's refusal to comply with the resolutions of the United Nations and the statements of the Organization of American States in this regard ..."

66. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by OAS was stated in a note verbale dated 4 June 2004 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS. Referring to the Declaration on the Question of the Falkland Islands (Malvinas) adopted by the General Assembly of the OAS, the Permanent Observer stated that:

> "The United Kingdom's position was last set out in detail by the United Kingdom's Permanent Representative to the United Nations, Sir Emyr Jones Parry, in a written right of reply dated 30 September 2003 to the statement made by President Nestor Carlos Kirchner of the Argentine Republic in the United Nations General Assembly on 25 September 2003. Our position was also set out in my letter of 12 February 2004 to the Chairman of the Permanent Council in Washington. I am confident that this matter will not inhibit fruitful cooperation on the remaining issues on the agenda of the thirty-fourth regular session of the General Assembly of the Organization of American States.
>
> "The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia and South Sandwich Islands and their surrounding maritime areas."

67. On 20 November 2004, the Heads of State and Government of the Ibero-American States, meeting at the fourteenth Ibero-American Summit in Costa Rica, adopted a special declaration on the Malvinas Islands:

> "The Heads of State and Government of the Ibero-American countries, meeting in the city of San José de Costa Rica on the occasion of the fourteenth Ibero-American summit, reaffirm the need for the Governments of the Argentine Republic and of the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, the negotiations aimed at finding an early solution to the sovereignty dispute relating to the question of the Malvinas Islands, in accordance with the resolutions of the United Nations and the Organization of American States and the provisions and objectives of the Charter of the United Nations, including the principle of territorial integrity."

68. On 5 November 2004, the Presidents of the Rio Group, meeting in Rio de Janeiro, issued a joint statement of the Presidents of the Rio Group on the Malvinas Islands:

> "We reaffirm our support for the legitimate rights of the Argentine Republic in the sovereignty dispute relating to the question of the Malvinas Islands. We also note the interest of the region in an early solution to the prolonged sovereignty dispute over those territories between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland, in accordance with the resolutions and declarations of the United Nations and the Organization of American States."

69. Declarations on the question of the Falkland Islands (Malvinas) were also adopted by the Ministerial Council of the Latin American Integration Association at its meeting held at Montevideo, on 18 October 2004, and at the third South American Summit of the South American Community of Nations, held in Cuzco, Peru, on 8 December 2004.

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 12 January 2004, as well as from official documents of the Government of Argentina.

[2] MercoPress-Falklands Malvinas and South Atlantic News, 23 February 2005.

[3] *Penguin News*, 24 December 2003.

[4] Ibid., 24 October and 7 November 2003.